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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, our Help in all the ups and downs of life, all the triumphs and defeats of political life, and all the changes and challenges of leadership, You are our Lord in all seasons and for all reasons. We can come to You when life makes us glad or sad. There is no circumstance beyond Your control. Wherever we go, You are there waiting for us. You are already at work with people before we encounter them. You

prepare solutions for our complexities, and You are always ready to help us resolve conflicts even before we ask. We claim Your promise given through Jeremiah: "I have plans for you: plans for good and not evil, to give you a future and a hope" (Jeremiah 29:11).

Lord, we want to do our work this day so that we will hear You say, "Well done, good and faithful servant." Our only goal is to please You in what we say and accomplish. Bless the Senators in the decisions they make and the votes they cast. Give them, and all of us who work with them, Your strength to endure and Your courage to triumph in things great and small that we may attempt the good of all. In Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CARL LEVIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

NOTICE

If the 107th Congress, 2d Session, adjourns sine die on or before November 22, 2002, a final issue of the Congressional Record for the 107th Congress, 2d Session, will be published on Monday, December 16, 2002, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 13. The final issue will be dated Monday, December 16, 2002, and will be delivered on Tuesday, December 17, 2002.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at <http://clerkhouse.house.gov>. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT-60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512-0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

MARK DAYTON, *Chairman.*

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S10973

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 14, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the chairman of the Commerce Committee has just come into the Chamber. As the Chair will announce, we will have a rollcall vote at approximately 10:30 this morning.

Upon the conclusion of that action on the conference report on Port Security, the Senate will resume consideration of H.R. 5005, the homeland security legislation. Prior to that, however, Senator SANTORUM is going to be recognized to offer a UC. And it is my understanding that Senator CANTWELL is also going to be recognized to offer a unanimous consent request.

Currently pending is a Gramm substitute amendment and a Lieberman first-degree amendment to the homeland security legislation. Cloture was filed on the Gramm amendment and on the bill itself. Therefore, Senators have until 1 p.m. today to file first-degree amendments to that legislation.

Mr. President, the Senate is also expected to consider other important legislation today. We understand that last night the House took to the Rules Committee the conference report on bankruptcy, which we have been waiting for for more than a year, and also the terrorism insurance conference report, legislation we have been trying to complete for more than a year. So we should be able to complete those two matters. It may be necessary, on one of them, to file a cloture motion, but that would be determined at a subsequent time.

So other votes could occur over the course of today's session. Certainly on Friday there will be votes with respect to cloture and maybe other items.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MARITIME TRANSPORTATION SECURITY ACT OF 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will now proceed to the consideration of the conference report to accompany S. 1214, which the clerk will report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214), to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment and the House agree to the same, signed by all conferees on the part of both Houses.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 13, 2002.)

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 60 minutes for debate on the conference report, with the time to be equally divided and controlled between the chairman and ranking member of the Commerce Committee.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, first, I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the American public is most familiar with airline, highway and rail transportation. But perhaps the most vulnerable link in our transportation system is the component that few Americans ever see: our major seaports.

Our 361 sea and river ports handle 95 percent of U.S. international trade. These ports annually transfer more than 2 billion tons of freight—often in huge containers from ships that discharge directly onto trucks and railcars that immediately head onto our highways and rail systems. But less than 2 percent of those 5 million containers are ever checked by customs or law enforcement officials.

That is a gaping hole in our national security that must be fixed. That is why the Senate passed The Port and Maritime Security Act of 2001 in December of 2001 and the House and Senate have filed the conference report on the Maritime Transportation Security Act of 2002.

Before discussing the specifics of this conference report, I want to discuss the vulnerabilities at America's seaports:

Lloyd's List International reported that a NATO country's intelligence service has identified 20 merchant vessels believed to be linked to Osama bin Laden. Those vessels are now subject to seizure in ports all over the world. Some of the vessels are thought to be owned outright by bin Laden's business

interests, while others are on long-term charter. The Times of London reported that bin Laden used his ships to import into Kenya the explosives used to destroy the U.S. embassies in Kenya and Tanzania.

A suspected member of the al-Qaida terrorist network was arrested in Italy after he tried to stow-away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source to operate the heater and recharge batteries. According to the Toronto Sun, the man also had a global satellite telephone, a laptop computer, an airline mechanics certificate, and security passes for airports in Canada, Thailand and Egypt.

In October, a French-flagged tanker was attacked by terrorists in a manner very similar to the speed boat attack on the USS *Cole* in 2000. The attack caused 60,000 tons of oil to be released into the waters off Yemen and killed one crew member.

These stories really bring home this issue of seaport security. Except for those of us who live in port cities like Charleston, people often do not think about their ports—the ports that load industrial and consumer goods onto trucks and railroad cars heading directly to their hometowns. But making these ports more secure is vital to protecting our national security. The destruction that can be accomplished through security holes at our seaports potentially exceed any other mode of transportation. And yet we have failed to make seaport security a priority.

Most Americans would be surprised to discover that until the provisions in this bill there has been no unified federal plan for overseeing the security of the international borders at our seaports. And that's what seaports are: international borders that must be protected as well as our land borders with Canada and Mexico.

The U.S. Coast Guard and U.S. Customs Service are doing an outstanding job, but they are outgunned. In the year 2000, we imported 5.5 million trailer truckloads of cargo. Due to that volume, the U.S. Customs Service is only able to inspect between 1 to 2 percent of containers. In other words, potential terrorists and drug smugglers have a 98 percent chance of randomly importing illegal and dangerous materials.

Senator BOB GRAHAM a few years ago convinced President Clinton to appoint a commission to look at seaport security. At the time, the main focus of port security was stopping illegal drugs, the smuggling of people, and cargo theft. While those problems still exist, the new—and very real—threat of terrorism strikes right at the heart of our national defense.

The Interagency Commission on Crime and Security at U.S. Seaports issued a report a year ago that said security at U.S. seaports “ranges from poor to fair.” Let me repeat that: 17 federal agencies reviewed our port security system and found it in poor shape.

According to the Commission:

Control of access to the seaport or sensitive areas within the seaports is often lacking. Practices to restrict or control the access of vehicles to vessels, cargo receipt and delivery operations, and passenger processing operations at seaports are either not present or not consistently enforced, increasing the risk that violators could quickly remove cargo or contraband. Many ports do not have identification cards issued to personnel to restrict access to vehicles, cargo receipt and delivery operations, and passenger processing operations.

The report said:

At many seaports, the carrying of firearms is restricted, and thus internal conspirators and other criminals are allowed armed access to cargo vessels and cruise line terminals. In addition, many seaports rely on private security personnel who lack the crime prevention and law enforcement training and capability of regular police officers.

The report also found that port-related businesses did not know where to report cargo theft and other crimes, and that federal, state and local law enforcement agencies responsible for a port's security rarely meet to coordinate their work.

That is what our legislation does—it creates mechanisms to integrate all these different security agencies and their efforts to improve the security of our seaports, and the railways and highways that converge at our seaports. Our seaport security bill also directly funds more security officers, more screening equipment, and the building of important security infrastructure.

Each agency is good at what they do individually. But they will be even stronger working together, sharing information and tactics, and coordinating security coverage at our seaports. More teamwork between these federal, state and local agencies—along with our security partners in the private sector—will produce a more secure seaport environment that is stronger than the sum of each agency's individual efforts. To foster that teamwork, our bill sets up a National Maritime Security Advisory Committee responsible for coordinating programs to enhance the security and safety of U.S. seaports.

Most important in the bill are the requirements to implement security plans that will provide for efficient, coordinated and effective action to deter and minimize damage from a transportation security incident. The plans will be developed as a national plan, a regional area plan, and facility and vessel plans. The National and Area Security Plans will be developed by the Coast Guard and will be adequate to deter a transportation security incident to the maximum extent possible. The facility and vessel plans are for the individual waterfront facilities and vessels and must be consistent with the federal and area plans. The Secretary of Transportation will conduct an initial assessment of vessels and facilities on and near the water. The assessment will identify those facilities and vessel

types that pose a high risk of being involved in a transportation security incident. These assessments will identify the vulnerable assets and infrastructure as well as the threats to those assets and infrastructure.

Within a year the initial assessments will be made, interim security measures will be implemented, and more detailed assessments will be conducted, from which vessel and facility security plans will be devised. These plans will be based on the Coast Guard vulnerability assessments and security recommendations. The plans will be submitted to the Coast Guard by port authorities, waterfront facilities, and vessel operators. All ports, waterfront facilities and vessels are required to operate under approved security plans that are consistent with the Federal and Area Security Plans.

To further enhance law enforcement cooperation, we will require the establishment of Area Security Advisory Committees at each port to coordinate security plans among all the involved agencies: law enforcement, intelligence agencies, Customs, Coast Guard, Immigration, port authorities, shipping companies, and port workers. The bill also creates new programs to professionally train port security personnel. Certification and training of maritime security personnel will be crucial in increasing the professionalism of our federal, state, local, and private sector security personnel.

To address the immediate risk of terrorist activities at or through our seaports, the bill directs the Secretary of Transportation to immediately establish domestic maritime safety and security teams to respond to terrorist activity, criminal activity, or other threats. The units will be composed of officers trained in anti-terrorism, drug interdiction, navigation assistance, and facilitating response to security threats. I would like to thank Senator EDWARDS for his work on this provision. The bill also creates a Sea Marshal program to more specifically authorize the Coast Guard to board vessels in order to deter, prevent, or respond to acts of terrorism. These Sea Marshals will ride along aboard some vessels entering U.S. ports as a deterrent against hijacking or other criminal activity. I would like to thank Senator JOHN KERRY and Senator JOHN BREAUX for working on the Sea Marshal initiative. I also commend Senator BREAUX for all his work on seaport security. He is the Chairman of the Subcommittee on Surface Transportation and Merchant Marine, he has toured throughout the nation reviewing security at our seaports and has done a yeoman's job helping to pass this bill.

The bill will require ports to limit access to security-sensitive areas. Ports also will be required to limit cars and trucks, coordinate with local and private law enforcement, and develop an evacuation plan. Port areas will have increased security with specific

area within the port being designated as controlled access where only those with the appropriate credentials will be allowed. The bill also will require criminal background checks of employees with access to ocean manifests or access-controlled areas of a port or terminal. These background checks are designed to ensure that individuals with access to our terminals and cargo facilities are not a terrorism security threat. A system of appeals and waivers will be provided to ensure that port workers are given full and adequate opportunity to explain mitigating factors justifying any waiver requests.

This bill will require for the first time that we know more in advance about the cargo and crew members coming into the United States. The more we know about a ship's cargo—and where it originated—the better our Customs agents and other law enforcement officers can target the most suspicious containers and passengers. I am also pleased that we established performance standards for the locking and sealing of containers. It is vitally important that we ensure that shipping containers are adequately designed and constructed and that we check that they are securely locked for shipment.

The bill modifies a rulemaking requirement for advanced cargo information. The original requirement was included in the Senate passed version of the bill. The rulemaking was then included in the Trade Act, and S. 1214 makes modifications to the Trade Act to incorporate additional changes. I would like to thank the Finance Committee for their cooperative spirit in our effort to enhance cargo security.

Perhaps most importantly, we will give port authorities and local entities support in implementing and paying the costs of addressing Coast Guard identified vulnerabilities. We are dealing with an issue of national security—and we will treat it as such. It would be great if we could simply declare our ports to be more secure. But it takes money to make sure these international borders at our seaports are fully staffed with customs, law enforcement, and immigration personnel. It takes money to make sure they have modern security equipment, including the newest scanners to check cargo for the most dangerous materials. And it takes money to build the physical infrastructure of a secure port.

For seaport security infrastructure, the bill directly authorizes amounts sufficient to upgrade security infrastructure such as gates and fencing, security-related lighting systems, and remote surveillance systems, equipment such as security vessels and screening equipment. I had hoped that we would have an agreement on a dedicated funding mechanism to ensure that state, local and private sector entities that are required to comply with federal security mandates would have the necessary funds to aggressively pursue compliance with security requirements. Unfortunately, I was not able to

convince all of the conferees that this was the proper course of action. I was happy that we did reach an agreement to have the Administration report on how to pay for the federal portion of the seaport security responsibility. I will be following this very closely to ensure that we have some sort of agreement to allow for the aggressive pursuit of a new system of seaport security.

U.S. Customs officers must be able to screen more than just 2 percent of the cargo coming into our seaports. We cannot expect to screen every marine container entering the United States, but there must be some expectation of inspection to deter cargo smugglers. While we spend billions of dollars on an anti-ballistic missile defense system, we fail to see perhaps even a greater threat to our national security coming through our ports. A cargo container can be delivered to anywhere in the United States for less than \$5,000. The enemies of America can afford \$5,000 to import a container of explosive or hazardous materials much more easily than millions of dollars to launch a rocket.

Investing in new screening technologies will help human screeners inspect more cargo, and detect the most dangerous shipments. To increase the amount of cargo screened, the bill directly grants and authorizes \$90 million in research and development grants to be awarded to develop methods to increase the ability of the U.S. Customs Service to inspect merchandise carried on any vessel that will arrive in the United States; develop equipment to detect nuclear materials; improving the tags and seals used on shipping containers, including smart sensors for tracking shipments; and tools to mitigate the consequences of terrorist attack. The research and development funds are intended to fund any enhancements that are necessary to enhance technology at U.S. Seaports.

The destruction that can be accomplished through security holes at our seaports potentially exceeds any other mode of transportation. We all know the damage that can be caused by one truck bomb. But one ship can carry thousands of truck-sized containers filled with hazardous materials. A hijacked tanker holding 32 million gallons of oil or other explosive material that is rammed into a port city like Boston, New York, Miami, Los Angeles or Seattle could potentially kill thousands of people and destroy many city blocks.

That vulnerability is magnified by the type of facilities along our coasts and rivers. There are 68 nuclear power plants located along U.S. waterways. Along the 52-mile Houston Ship Channel, there are 150 chemical plants, storage facilities and oil refineries. The Baltimore Sun reported that "within a mile of the Inner Harbor of Baltimore is a major East Coast import and export hub for a broad range of dry and

liquid chemicals. If ignited, many are capable of producing ferocious fires, explosions and clouds of noxious fumes—immediately adjacent to such densely populated row house neighborhoods as Locust Point, Highlandtown, and Canton."

Most of the security procedures and infrastructure improvements contained in our bill have long been practiced at our airports and land border crossings. But, for some unfathomable reason, we don't take these preventive steps at our seaports—where most of our cargo arrives, and where we are most vulnerable.

Our agents at the Mexican border near Tijuana will tear the seats out of a car to search for drugs—while a crane just up the coast in Los Angeles lifts thousands of truck-sized cargo containers onto the dock with no inspection at all.

For the first time we will require federal approval of seaport security plans, better coordination and training of law enforcement, more information about cargo, and directly fund more Coast Guard personnel, U.S. Customs agents and security screening equipment to protect against crime and terrorism threats.

Prior to September 11, 2001 we already faced security problems at our seaports related to smuggling, drugs, and cargo theft. But now we face the even greater threat of terrorism—a threat that requires us to immediately tighten security at our seaports, the most vulnerable part of our international border, in the defense of our nation.

This landmark bill also incorporates a Coast Guard authorization bill—the first Coast Guard authorization bill that has passed Congress since 1998. The Coast Guard provisions in the bill reflect the provisions of S. 951, the Coast Guard Authorization Act of 2001, which was reported out of the Commerce Committee last year.

The bill provides increased authorization levels for appropriations in fiscal year 2003, as well as increased personnel. The bill authorizes approximately \$6 billion for the Coast Guard's total budget for fiscal year 2003. This is approximately \$1 billion higher than the amount appropriated in the FY 2002 Transportation Appropriations bill, and is approximately \$200 million higher than the \$5.8 billion of total enacted amounts in FY 2002, which includes two supplemental appropriations.

The bill also increases the maximum end-of-year strength to 45,500 active duty military personnel, up from about 35,500, and includes personnel incentives.

The authorizations of appropriations in this bill include \$725,000,000 for capital investments, to ensure that the multi-year Deepwater program and the overhaul of the National Distress and Response System (NDS), or "Maritime 911," are adequately funded in 2003.

Ensuring that the Coast Guard has sufficient personnel and capital re-

sources could not come at a more important time. Since the tragic events of September 11, far greater demands have been placed on the Coast Guard in the area of homeland security. Traditionally, the Coast Guard invested only 2 percent of its operating budget into seaport security; this climbed to over 50 percent of its total operating budget after September 11. Now, approximately 22 percent of the budget is envisioned for seaport security.

The Coast Guard has unique missions not covered by any other federal agency. It has the primary responsibility of enforcing U.S. fisheries laws, carrying out drug interdiction at sea, search and rescue operations, and protecting the marine environment against pollution.

With the new responsibilities for port security, combined with the traditional role the Coast Guard plays in other mission areas, it is critically important that the Coast Guard has a vision for how to achieve the "new normalcy," wherein it carries out all of its traditional and new missions, as well as the means to ensure its ability to carry out such functions.

This bill requires the Coast Guard to examine and report to Congress its expenditures by mission area before and after September 11, and the level of funding need to fulfill the Coast Guard's additional responsibilities. The bill also requires the Coast Guard to provide a strategic plan to Congress identifying mission targets for 2003, 2004 and 2005 and the specific steps necessary to achieve those targets.

Even prior to 9/11, there were serious concerns about the Coast Guard's ability to carry out its core missions. For example, the Coast Guard's 30-year-old National Distress and Response System (NDS), also known as "Maritime 911," is breaking down, and has 88 gaps in its geographical area of coverage. Failure to retain experienced crew has plagued the Coast Guard for years. The lack of experienced personnel has resulted in tragedy, with unanswered calls for help leading to the loss of lives at sea. In 1997, all four passengers of the sailboat *Morning Dew*, three of them children, drowned outside of Charleston Harbor as a result of a failed search and rescue system.

The bill requires the Coast Guard to establish and implement standards for the safe operation of all search and rescue facilities. These include standards for the length of time an individual may serve on watch, and acquisition of equipment to achieve safety in the interim, as the entire system is upgraded.

Since the events of September 11, our demands on the Coast Guard have risen dramatically. We must ensure that the Coast Guard is equipped with all of the tools and resources that it needs to protect our seaports, and to carry out all of its traditional missions. I am pleased that we have reached a successful result in the Conference with the House, and that by enacting a Port Security bill, we will at the same time be

passing a Coast Guard authorization bill this year.

Mr. President, the morning news reports that Osama bin Laden is alive and well and al-Qaida operates. Four years ago, we started working on this measure, because it was just prior to that time that one of al-Qaida's tankers pulled into Mombassa, the port at Kenya, and the terrorist crew jumped off and blew up the embassy at Nairobi and then Dar Es Salaam's embassy in Tanzania. Lloyds of London reports Osama bin Laden has actual ownership of some 10 oil tankers, and he has control of some other 10 cargo tankers.

I point this out because it is the real threat. Yes, we have maybe a hijacking threat, but the real threat now, as we see it develop, is with respect to our seaports. That is why we started in the committee, some 4 years ago, with respect to seaport security.

Only, last year in Italy we found a suspected al-Qaida terrorist network was operating, coming in through containers. There are some 5 million containers that come into the United States of America each year with 2 billion tons of freight. Only 2 percent of those containers are inspected at this time.

But that one particular suspected terrorist had a bed and a toilet; he had his own power source and everything else like that ready to operate. He could just as easily have come, and may have, unbeknownst to us, into the United States of America.

But let's go right to just last month, the oil tanker off of Yemen, the French tanker with some 60,000 tons of oil. As they blew up the USS *Cole*, they blew up this particular tanker. One can easily foresee that a regular tanker could come up the Delaware River with a suicidal al-Qaida group in operation or in control, where they throw the captain overboard and run it right into an oil tank farm there in Philadelphia, blowing the whole thing up, closing down the eastern seaboard.

So we worked very hard on this legislation. I commend the Senate itself because it was last year at this time, and both sides of the aisle, under the leadership and working with my distinguished colleague, Senator MCCAIN—the soon-to-be chairman again—we worked and unanimously reported out a port security bill from our Commerce Committee. We passed it in the Senate 100 to 0.

It languished on the House side for some months. And it was in June that they finally passed it. And we have been with the staff.

I must emphasize the outstanding work of our staff in this particular regard. We worked all summer long. We thank particularly our colleague Mr. OBERSTAR who worked with us as diligently as he could. In any event, now we have the conference report. It is not complete in the sense that it is not funded. We provide in here certain sums as is necessary to be reported to us in the Congress within 6 months.

We tried to get funding. The Senate had approved a user fee. They called it a tax, and we had some effort over the summer working it out to make sure it was a user fee. Then they said it was an origination problem. Thereupon we said: All right. Just take the conference report. You introduce it. We are not proud of its origin particularly. And you put it in, and we will approve it on the Senate side. So that caused a great delay, but now it's ready to go.

The Maritime Transportation Security Act will provide for the first time a national system for securing our maritime borders. Heretofore, we have known every plane that approaches the continental limits of the United States. They have transponders. We have the radar. We track them. But we couldn't tell what ship was coming, when it was coming, or how. We moved some weather satellites to repair that particular deficiency. We now know, with the Coast Guard working overtime, of the ships approaching. But we now have a secure system for our maritime borders.

We have to first ask that the Secretary of Transportation conduct an assessment of all vessels and facilities on or near the water and identify the risks of being involved in an incident. Then we develop a port and area security plan.

Let me emphasize, you have the Coast Guard. You have Customs. You have DEA. You have local law enforcement. You have the Immigration and Naturalization Service. When everybody is in charge, nobody is in charge. Under the present law, the captain of the port is in charge. We haven't changed that, but we have given him assistance.

We have the Coast Guard authorization bill also in this particular conference report, increasing the Coast Guard amounts and authorizations some \$1 billion this fiscal year 2003 over 2002. So we are beginning now to upgrade the wherewithal of the Coast Guard itself that has been doing an outstanding job.

The plans are based on the Coast Guard security recommendations, which they will make within 1 year, of all ports, facilities, and vessels determined to be vulnerable. They then have the local port security committees, which will coordinate the Federal, State, and local and private enforcement efforts.

We have been doing this, I know in the ports of Charleston and several others on the eastern seaboard. They have just been awaiting this legislation to make sure we are working in lock-step with the Federal requirements. But then when I say they have to have the private efforts, think about it. If you went down to the Rio Grande, to the border, and to the State of Arizona and told a rancher down there: Wait a minute, there are some illegal immigrants coming across the border in the nighttime, and what you have to do is not only put a barbed wire enclosure

around your particular ranch, but you have to turn the lights on at night and everything else like that, this is a private ranch, he would look at you and laugh. He would say: What are you talking about?

That is what we are doing with respect to many of the ports that are operated privately. The Danes operate the Port of New York; the Chinese operate the Long Beach Port; the union operates the Seattle Port; the State of South Carolina operates our ports. So you can see this particular task has to be a comprehensive and coordinated effort.

We then develop secure areas in the ports as part of the security plans. That is approved by the Department of Transportation. There is a grant program here of allocations to the different ports authority, the size, the threat, and whatever else is there. There is \$90 million in research grants to be awarded to develop the methods to increase the ability of the U.S. Customs to inspect the merchandise. There is a \$33 million program intended for the development of security training.

There is an established maritime intelligence system to work with this new Department of Homeland Security. They have to take all of this information, not just from the FBI, CIA, NSA, and Secret Service, but the DEA in large measure furnishes intelligence.

We will have transponders on the various vessels coming in. Within that year, we will have a certified system of transportation that is a secure system of transportation allowing for secure maritime borders. They will have to be screened prior to entry.

The transportation oversight board will establish a security program to develop the secure areas as well as the standards. People working in those secure areas will be required to have background checks. Not everybody coming there delivering the Cokes for the Coke machine or whatever will need it, but there will be secure areas, and people working in them will have to have background checks. We have established a sea marshal program that the maritime folks have wanted for quite a while.

We have an assessment of the foreign antiterrorism measure. And let me commend Mr. Bonner, the Director of Customs, who has already gone overseas and coordinated this. What we are doing is establishing assessment and check methods and secure methods for the ports of the cargo being loaded into the containers before they leave, let's say, the Port of London. We are going to have to do the same things to facilitate delivery when it comes into the United States.

I emphasize the Coast Guard authorization bill. We haven't had one since 1998. We have been struggling with that. But now everybody has in their minds front and center the Coast Guard, the magnificent job it has been doing, even as it has been understaffed and underfunded. We are going to build that up.

I yield such time as is necessary to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, let me start by, once again, thanking Chairman HOLLINGS for his leadership in addressing identified safety and security problems at our Nation's seaports. I applaud his leadership and steadfastness as we finally bring this important piece of legislation to completion.

The conference report we are considering today is an important step forward and will provide both the guidance and funding authorization needed to improve maritime and port security. It is past time to send this legislation to the President for his signature.

The old adage, "a chain is only as strong as its weakest link," is very true when it comes to securing our homeland. Today, our Nation's seaports remain a weak link in border security. This conference agreement will go a long way in strengthening that link.

Both the Hart-Rudman Report on Homeland Security and the Interagency Commission on Crime and Seaport Security found our seaports to be vulnerable to crime and terrorism. While there is no way to make our Nation's seaports completely crime free and impenetrable to terrorist attacks, this conference report will undoubtedly advance port security and help strengthen overall national security.

The report by the Interagency Commission on Crime and Seaport Security, also known as the Graham Commission, in recognition of Senator GRAHAM's efforts to establish such a commission, was a catalyst 2 years ago for the Commerce Committee's initial efforts to address crime and security issues at our Nation's seaports.

The committee held a number of hearings in Washington focused on seaport security issues and the Subcommittee on Surface Transportation and Merchant Marine also held field hearings on the west coast in Seattle, WA, and Portland, OR, and on the southeast and gulf coast in Port Everglades, FL, New Orleans, LA, Houston, TX, and Charleston, SC. The input from numerous witnesses contributed significantly to the development of this agreement.

As I have mentioned many times during the past year, it is widely reported that transportation systems are the target of 40 percent of terrorist attacks worldwide. This conference agreement would provide for increased security at our Nation's seaports, helping to reduce crime and protect vessels and vital transportation infrastructure from terrorist attacks.

The conference agreement includes a number of important provisions. It requires coordination among the many entities that play a role in security at our Nation's seaports and on our navigable waterways, including the Coast Guard, the Customs Service, and the

many other Federal, State, local, and private agencies. It directs these entities to work together to establish security plans aimed at decreasing vulnerabilities and reducing threats to our ports and maritime transportation system. These plans will help define specific responsibilities and secure our seaports.

The conference agreement also requires the Secretary to establish incident response plans that explain the role of each agency and how their efforts are to be coordinated in the event of an attack on our Nation's maritime transportation system. In addition to providing guidance on how to respond in the event of an attack, it is expected the detailed planning called for in the agreement will help deter terrorist attacks and other criminal acts aimed at our seaports.

The conference agreement further requires the Secretary to establish a grant program to provide much needed funding to ports and facilities to help defray the compliance costs associated with both area and facility security plans. The Secretary will also be required to establish a program to provide grants to look at new and existing technologies that can be used to better secure and protect our Nation's maritime transportation system.

The conference agreement takes into account not only the wide range of threats and crimes surrounding our seaports, but also the unique nature of our ports. A "one-size-fits-all" approach will not work. The planning process established in the conference agreement requires the Secretary to consider the fact that our Nation's seaports are complex and diverse in both geography and infrastructure.

While there are still many questions regarding how far we must go to secure our ports and waterways, I am confident that the compromise reached with our House colleagues will create a safer and more secure maritime transportation system in the United States and allow the flow of commerce to continue.

Mr. President, this conference agreement also includes the provisions from our Coast Guard authorization. The Coast Guard has been operating without an authorization since 1998, and the resources and personnel benefits provided in this measure for the men and women serving in the Coast Guard are long overdue.

This agreement authorizes funding for the Coast Guard for fiscal year 2003 at the levels requested by the President for six accounts: one, operation and maintenance expenses; two, acquisition, construction, and improvement of facilities and equipment, AC&I; three, research, development, testing, and evaluation, RDT&E; four, retirement pay; five, environmental compliance and restoration; and six, alteration or removal of bridges. It also authorizes end-of-year military strength and training loads to ensure that the Coast Guard will have the flexibility to respond to its ever growing missions.

The provisions from the Coast Guard authorization bill include numerous measures which will improve the Coast Guard's ability to recruit, reward, and retain high-quality personnel. The conference agreement addresses various Coast Guard personnel management issues such as promotions, retention, housing authorities, and education, along with measures that grant the Coast Guard parity with its Department of Defense counterparts.

Additionally, this legislation provides a number of changes to U.S. maritime laws and Coast Guard authorities such as extending the time for recreational vessel recalls, and increasing penalties for negligent vessel operations. This bill also provides much needed advance funding authority for the Oil Spill Liability Trust Fund which will allow the Coast Guard to better respond to the ever increasing costs of environmental cleanups.

In closing, Mr. President, I want to commend the conferees for their work to reach a compromise on this important legislation. I urge my colleagues to support final passage of this legislation.

Again, I thank Senator HOLLINGS for his dedicated and deeply involved work on this legislation, including conduct of field hearings throughout the United States, including the important port of Charleston, SC.

Mr. President, I know the Senator from Texas, Mrs. HUTCHISON, wishes to speak on the conference report. I yield the floor.

Mr. HOLLINGS. Momentarily our distinguished colleague from Florida will speak. It was Senator GRAHAM of Florida who persuaded President Clinton to appoint the investigating commission with respect to seaport security.

I wish to add a couple comments with respect to the Coast Guard authorization. As I have stated, it is the first authorization since 1998, and it increases the Coast Guard budget \$1 billion, with 10,000 additional active duty military personnel. They have been understaffed. I know of a tragic situation of search and rescue that did not work in Charleston, SC, my backyard. There are provisions in this legislation so we have adequate personnel manpower there.

The Coast Guard is to examine and report to Congress its expenditures and missions by September of next year. We want to get in lockstep as they increase their effort from 2 percent of the budget to some 22 percent of the budget with respect to seaport security.

I can point out many other provisions, but I will yield such time as is necessary to the distinguished Senator from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, first, I wish to extend my congratulations to the Senator from South Carolina and the Senator from Arizona, who have

been working on this issue for many months and have carried the position of the Senate in the conference committee. I commend you for the success we have achieved today and for the battles we both recognize will be required in the future in order to fully realize the goals of this legislation.

Mr. HOLLINGS. I thank the Senator.

Mr. GRAHAM. Mr. President, I am very pleased to rise in support of the Maritime Transportation Security Act of 2002.

This legislation will secure one of our Nation's greatest vulnerabilities, our seaports.

This bill not only ensures that our ports remain a driving force in the American economy, it also commences the closing of the floodgates of vulnerability to the terrorist threat to American seaports.

Mr. President, there is much work that remains to be done.

For this legislation to be effective, it must have a predictable and sustained funding source for the agencies tasked with maintaining the security of our maritime borders.

It was in December of 2001, almost a year ago, that the Senate unanimously passed a comprehensive seaport security bill. The House of Representatives passed its own version in June of 2002. This legislation has been in conference for 4 months. Valuable time has been passing while an important part of our homeland economy, as well as our homeland security and the Nation's 360 seaports, have remained extremely vulnerable.

I am pleased a final agreement has been reached and the bill is completed and it will soon go to the President for his signature.

To quote the Florida Ports Council:

Seaport security must be addressed in a comprehensive, intelligent, practical manner by the Federal Government—now, not in 2004 or 2006, or 2008.

The security of our borders is a national responsibility. No matter how good our State processes and practices are—without the Federal Government requiring realistic security plans and standards—the public domain will remain at risk.

I am pleased we are doing that today and starting to fulfill our Federal responsibilities.

We live not only in a democracy but also in a nation that allows its citizens and visitors the freedom to travel throughout our great country.

The United States thrives on global trade and global travel.

But support for democracy and freedom must go hand-in-hand with strong protection of our maritime borders.

Fortunately, our seaports have not yet been attacked. Fortunately, as of today, one of those container cargoes, 16,000 of which arrive at America's seaports every day, has not been used as the means by which a weapon of mass destruction will be delivered within the United States.

This means instead of looking at the security of America's seaports through the rearview mirror, as we have been

doing since the events affecting airlines and airports as a result of September 11, 2001, we are looking at seaport security through the windshield, albeit a foggy windshield. We not only have a responsibility but an opportunity to take steps to avoid the head-on collision at America's seaports that has not yet occurred.

Since September 11, there has been a lot of discussion about connecting the dots, what could have been pieced together, the things we should have seen before that tragic day. And, like 9/11, information about our seaports presents a disturbing array of dots. But from these, there is a clear pattern of vulnerability at our seaports and the cargo containers which they deliver.

Many of these dots are available only in classified form, which are not disclosed for national security reasons. But there are many instances of security breaches at seaports that have been publicly disclosed—in open sources—that paint a stunning portrait of our maritime vulnerabilities. Weekly, I read newspaper accounts of stowaways and narcotics arriving in our country, and of security lapses at our ports.

I have several articles I would like to bring to the attention of my colleagues, and I ask unanimous consent that they be printed in their entirety in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. On May 13, 2001, Fox News and the Associated Press reported that 25 Islamic extremists, hidden on commercial freighters as stowaways, illegally entered the United States. These individuals reportedly entered the United States through four seaports in Miami; Port Everglades, Fort Lauderdale; Savannah; and Long Beach. Where have these men gone and, more importantly, what are their intentions?

The Washington Times, in a January 22, 2002, article entitled "Seaports Seen as Terrorist Target," reported al-Qaida "shipped arms and bomb-making materials via Osama bin Laden's covertly owned freighters." These explosives were later used to blow up the U.S. embassies in Kenya and Tanzania.

What if these ships were making port calls at a port in the United States of America?

Further, in a front page article dated February 26, 2002, USA Today reported that in October of 2001, a month after 9/11, port authorities in Italy opened a suspicious container and found an Egyptian-born Canadian person, equipped with a satellite phone, laptop, false credit cards, and security passes for airports in Egypt, Thailand, and Canada. What if this container and person made a successful, undetected entry into the United States?

On June 16, 2002, the Washington Post reported that three men captured by CIA and Moroccan authorities told

interrogators they escaped Afghanistan and came to Morocco on a mission to use bomb-laden speedboats for suicide attacks on U.S. and British warcrafts in the Strait of Gibraltar.

On October 6, 2002, the French-flagged supertanker *Limberg* was attacked and holed by a small boat packed with explosives, possibly a remote-controlled boat, off the coast of Yemen. This attack is now widely believed to be the work of al-Qaida operatives.

Yemen is, of course, the same location as the USS *Cole* bombing of 2 years earlier.

On October 29, 2002, as seen on national television, a 50-foot coastal freighter with 234 Haitians and 2 Dominicans landed close to Miami, in Biscayne Bay, Florida. How did this boat manage to get so close to a major American city? This vessel was not detected by the Coast Guard until the last few hours of its voyage.

Finally, less than 2 weeks ago, November 4, 2002, The Houston Chronicle reported 23 stowaways to Honduras who were captured at the port, 16 on the barge and 7 more who had tried to swim ashore.

Mr. President, the current assessment from the U.S. intelligence community is that 19 of the 35 State Department-designated foreign terrorist organizations have access to maritime conveyances, or are directly associated with maritime terrorism.

Since 1991, there have been 131 maritime attacks. This includes 19 ship hijackings, bombings, armed attacks, or kidnappings in the 4-year period between January 1996 and December of 2000.

Clearly, both our seaports and maritime borders and their vulnerability to terrorists remain a primary U.S. security concern.

In 1998, I asked former President Bill Clinton to establish a Federal commission to evaluate both the nature and extent of crime in our seaports. I have become aware of the extensive and expanding use of seaports for a variety of criminal activities.

In response to this request, President Clinton established the Interagency Commission on Crime and Security in U.S. Seaports on April 27, 1999.

The three distinguished cochairs of the commission were Raymond Kelly, then commissioner of the U.S. Customs Service, now head of the New York City police department; James Robinson, then assistant Attorney General; and Clyde Hart, then administrator of the Maritime Administration.

In October of 2000, the commission issued its final report. This report outlined many of the common security problems that were unearthed at U.S. seaports. The commission made 20 findings and included recommendations to respond to these threats. Our seaport security bill addresses many of them directly.

For example; the Commission reported a "need for a more comprehensive and definitive statement of the

specific federal responsibilities," including the "lead agencies" of Customs for international cargo and Coast Guard for seaport security.

Our seaport security bill provides new authorities for both of these agencies.

The Commission also noted that:

Comprehensive interagency crime threat assessments * * * currently are not conducted at seaports and that the federal government should establish baseline vulnerability and threat assessments for terrorism at U.S. seaports.

The seaport security bill requires the Coast Guard to survey all ports, prioritize them, and then conduct detailed port and vessel type vulnerability assessments.

The Commission called for a "comprehensive initiative to improve cargo import procedures," noting that "vessel manifest information, import and export, is sometimes deficient" and "is more easily utilized * * * if it is received in electronic data formats before the arrival of the vessel."

The seaport security bill requires vessel and cargo data to be submitted in advance and in a format to be prescribed by the Secretary of Transportation.

The Commission was concerned that "no minimum security standards or guidelines exist for seaports and their facilities."

The seaport security bill would require security standards and provide federal grants for these improvements.

These are but a few of the many vital provisions in this seaport security bill.

On September 11, 2001, four commercial airliners were hijacked and turned into weapons of mass destruction, crashing into three symbols of American strength. The fourth airliner was destined for yet another symbol of American strength but for the courageous passengers and crew who intervened. We were not able to prevent these hijackings before they happened.

After that tragic day, Congress quickly responded and introduced the Aviation Security Act on September 24. It was signed into law on November 19, 2001. This law requires safer cockpits, air marshals, Federal oversight of all the airport security operations, advanced anti-hijacking training for all flight crews, establishment of a security fee, and background checks for flight school students.

On September 21, 2001, 10 days after the attack, Congress approved a relief package for the airline industry. This included \$5 billion of immediate cash infusion for U.S. air carriers and \$10 billion in loan guarantees.

We responded because we had been hit. The challenge of this legislation is: Are we prepared to respond before we are assaulted?

I believe we are beginning to answer that question in the affirmative with the adoption of this legislation.

The threat to our seaports is urgent and real. When a cargo container arrives on our shores, it is quickly loaded

into a truck or a train, leaving all Americans, not just those who are located close to a seaport, vulnerable to a security lapse which occurs at the seaport because the seaport is the last point at which that container can reasonably be checked and evaluated to determine if it represents a threat to the American people.

While our bill is a step in the right direction, we must fully commit to our seaports as we have to our airports, which includes a steady stream of funding.

As my colleagues may be aware, the primary reason this seaport security bill was in conference for 4 months was the inability of Members to reach agreement on how to fund these security measures. So what we are passing today is essentially an authorization bill. We are providing the basic architecture of the security, but the challenge to provide the plumbing and the electrical systems that will bring this architecture to life is yet to be faced.

My preference was to pass a bill which would have contained that plumbing and electrical system in the form of user fees, as we have already done for airports and airlines, giving our ports an immediate influx of money to quickly address the security lapses that have been identified.

Why is this so important? If we do not have a dedicated stream of user-generated revenue, our commitment to seaport security may be viewed as temporary and piecemeal.

The PRESIDING OFFICER. The time reserved for the Senator from South Carolina has expired. The Senator from Arizona controls the balance of the time.

The Senator from Arizona.

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eighteen and a half minutes.

Mr. GRAHAM. I ask the Senator from Arizona for a minute to close.

Mr. McCAIN. Certainly. I yield 3 minutes to the Senator from Florida.

Mr. GRAHAM. As chairman of the Senate Select Committee on Intelligence, over the past 2 years, I have worked with the committee on a 5-year plan of enhancing technology and human skills within the intelligence community.

It is our expectation that these investments will yield rich dividends in the intelligence community, to understand the terrorist threat to our Nation, better inform decisionmakers on policies that can defend against these threats, and take direct action against the terrorists.

It should be no different at our Nation's seaports. Investing in security along our maritime borders is as vital as investing in our intelligence capabilities or our Nation's airports. But I am troubled by the prospects. The administration has shown no willingness to request any funding for our seaports.

The administration's fiscal year 2002 and 2003 budgets contained no funding

for seaport security. To date, all funding for enhancing security at our seaports has been as a result of congressional action on supplemental appropriation bills.

Illustrative of this gap between congressional funding and the administration's funding is the fact that only \$93 million was available from the Transportation Security Administration for over \$700 million of seaport security grant requests.

While this funding has aided some ports, comprehensive security improvements for all ports will cost significantly more.

Based on a survey of just 52 large ports by the American Association of Port Authorities, the improvement costs totaled over \$2.2 billion.

In addition, the United States needs a consistent policy on how much of the additional security costs are the responsibility of the Government and how much by industry and its consumers. We need to fairly apply this policy across all parts of the industries and economy.

Ultimately, it should be similar to our approach, and response to, the aviation industry. Undoubtedly, funding security improvements at our ports must be a major task and priority for the 108th Congress.

Seaports are an important economic engine. They are the major gateway to America for cargo and consumer goods.

Annually, the U.S. marine transportation system handles 2 billion tons of freight, 3 billion tons of oil, and 7 million cruise ship passengers. Over 800 ships make more than 22,000 port visits per year in the United States.

One terrorist incident at a seaport could impact an entire coast or the entire economy of the United States. The financial impact of the closing of our seaports would be devastating.

As reported last September in USA Today and numerous other publications, the closure of 29 seaports on the west coast due to labor issues reportedly cost \$1 billion a day.

I ask my colleagues, what would happen if we had to close all of our 361 seaports? Factories and plants would quickly be out of parts and be forced to shut down. Commodity hoarding would begin and prices would rise. The stock market would undoubtedly be shaken. Energy and oil prices would rocket upwards.

On April 1, 2002, Business Week magazine observed that "if a disruption at one of the country's 361 ports leads the U.S. Government to shut them down the way it grounded air traffic in September, it would bring some \$2 billion a day in seaborne trade to a dead stop and instantly cripple the domestic economy."

The issue of seaport security is not going away.

Foreign trade accounts for over one-fourth of the total U.S. gross domestic product.

According to the U.S. Coast Guard, by 2020, one-third of all container ships

will be massive vessels termed "mega-ships," oil imports will increase to two-thirds of our consumption, and liquefied natural gas imports will increase by nine-fold.

The Customs Service estimates that by 2020 the volume of imported cargo will more than double.

While we have passed this important bill, we now have a responsibility to finding funding for these need security improvements.

I urge my colleagues to make the security of our ports a priority and to pass, and later fund, this legislation.

We must not leave our maritime industry vulnerable to the potential use by a terrorist organization. The possibilities are horrific: The possibility of major loss of life, the possibility of major economic damage, or the possibility of the delivery of a weapon of mass destruction.

We have take the first steps forward in aviation. Why would we leave our seaports and the maritime industry behind? The action that we take today is a beginning.

For this beginning to realize its promise of substantially enhanced security at America's seaports, within the flood tide of cargo containers that arrive each day, further action is required.

Working with the House of Representatives, it is my hope that, early in 2003, we will take the next step, providing a permanent and sufficient funding source for today's legislation.

An appropriate place to start the discussion is using the model of airports and aviation security, where funding is provided by the industry and its customers and the general public.

The President will recommend in his budget for 2004 what he considers the appropriate level for seaport security.

I urge him to be more forthcoming than in the last two budget submissions.

With the President's level of general revenue support, the Congress will be in a better position to determine what level of user fee will give Americans assurance of security at our Nation's seaports.

We understand the threat and the horrible outcomes from terrorism so much better than 1 year ago.

After the terrorist attacks, Congress took quick action to restructure our aviation security program, in order to better protect our country and prevent another attack.

We need to strengthen our seaports, with the same intensity demonstrated at our airports. We must guard our maritime borders against obvious weaknesses and their potential use as a terrorist target.

Our seaports are a vital national asset.

I close by saying we have work to do, and the primary focus of that work is going to be to arrive at a sustainable, reliable funding source for these important security measures. We will have an early indication of what portion of

this the President is going to recommend be paid through general tax revenue when we see his budget for the year 2004.

This legislation also requires the President, within 6 months of enactment, to submit a funding proposal on a permanent basis to the Congress. It is my hope that funding proposal will use as its starting point what we have already done for the airline industry where we have made some decisions as to how much of the security costs should be borne by general taxpayers and how much should be borne by the users and the industry. It seems to me we should strive to have a parity and balance of allocation of financial responsibility across our transportation systems. If we are committed, as the action today indicates, to providing security for our seaports before they are attacked and will not await a 9/11 to arrive at a city in the United States through a cargo container with a weapon of mass destruction, which 48 hours earlier had come through a seaport, if we are committed to security without having to be awakened through an assault, then we should also be committed to recognize this is not going to be cheap and it is not going to be a temporary commitment. It will be expensive and it will be sustained and we should provide the revenue to meet those realities.

EXHIBIT 1

[From USA Today, Feb. 26, 2002]

SHIPPING CONTAINERS COULD HIDE THREAT TO U.S.

(By Fred Bayles)

CHARLESTON, S.C.—The odd noises that came from the 40-foot shipping container at Gioia Tauro, Italy, harbor in October demonstrated the danger facing officials at ports around the world. When port authorities opened the suspect container, they found Amir, Farid Rizk, 43, an Egyptian-born Canadian equipped with satellite phone, laptop, false credit cards and security passes for airports in Egypt, Thailand and Canada.

Officials charged Rizk with terrorism but later released him after his lawyers argued he was fleeing religious and legal persecution in Egypt and was not a terrorist.

Rizk's choice of transportation highlighted a security problem that has troubled U.S. officials since well before Sept. 11.

More than 6 million shipping containers arrive here at Wando Welch yards in Charleston and other U.S. ports annually. Only 2% are inspected. The rest remain sealed as they are shipped throughout the country. It would be easy, some fear, to take a container, stuff it with explosives, a chemical weapon or a nuclear device and inject it into the nation's economic bloodstream. Security experts had thought about the massive flow of unchecked containers before the attacks on New York and Washington. In the November 2000 issue of Foreign Affairs, Coast Guard Cmdr. Stephen Flynn, a security expert with the Council on Foreign Relations, offered this scenario.

Suppose, he wrote, Osama bin Laden loaded a biological weapon into a container and shipped it through foreign ports to the USA. The container, unnoticed in the day-to-day bustle of trade, could then be put on a rail car at Long Beach destined for Newark, N.J. Somewhere along the 2,800-mile route, it is detonated.

As bad as the destruction such an attack might cause, the chaos that would follow could devastate the nation's economy.

The nation's shipping system could shut down, as airports did after Sept. 11. "The economic damage would be incalculable," Flynn says. "It would accomplish what a terrorist group wants to do, which is to disrupt this country's economic structure."

So what can be done? Looking inside each of the 6 million containers from abroad would disrupt the flow of goods. Technological solutions, including x-ray machines, are costly, expensive and not infallible. The answer may lie in better surveillance at the container's point of origin. Instead of inspecting every container upon arrival, sophisticated computer and intelligence systems are being established to identify suspicious containers before they leave foreign ports.

"You want to do something that doesn't wait until the container is offloaded here," U.S. Customs Commissioner Robert Bonner says. "The big idea is to think about how to push the border back."

WANDO WELCH

In South Carolina, the blur of movement at the port of Charleston's Wando Welch Terminal vividly shows the shipping business's need for speed. Massive cranes lift cargo containers off merchant ships arriving from around the world. The containers are stacked like giant Lego pieces across the 237-acre facility.

The activity at this, the nation's third-busiest, container facility is a tribute to the efficiency of the "intermodal" transportation system, which makes possible the quick transfer of seaborne containers to railcars and trucks without unloading and reloading their contents. The system touches every facet of the economy. Each state receives goods from an average 15 different ports every day, according to the American Association of Port Authorities.

That is why the industry balks at inspecting every container coming into the country. Several members of Congress, including Sen. Charles Schumer, D-N.Y., have proposed such steps.

At the Wando yards, the time a Customs inspector needs to examine a single container illustrates the challenge. One container, singled out because its manifest listed a cargo of "human aids," turns out to have been filled with bundles of used clothing bound from Italy to Bolivia. It took the inspector and a civilian crew most of the day to offload and inspect the bundles, then reload the container and send it back to the shipping yards.

"It would be very difficult to search every container without severely disrupting the flow of goods," Bonner says.

A glimpse of that kind of disruption came in late 1999. The nation's Western rail system slowed dramatically as it adjusted to a merger of two railroads, a booming economy and other factors.

The slowdown created havoc for weeks. Christmas items did not arrive to stores on time. Perishable goods rotted. Factories closed because needed parts were delayed.

"It was only temporary, but it created big headaches," says John Foertsch, the Southeast operations manager for OOCL (Orient Overseas Container Line), a major container shipper based in Hong Kong. "It's hard to imagine the chaos that would come if delays like that became the routine."

TECHNOLOGY SOLUTIONS

Some look to technology as a solution. Last summer, Customs agents at busier ports began using drive-through mobile X-ray units that can scan containers as they are driven past a checkpoint, much like luggage through an airport screening station.

Sitting in the cab of such a unit on the Charleston docks, Customs Inspector Eddie Basham peers at a computer screen displaying the shadowy interiors of passing containers. "Tires," he says, pointing to a stack of spirals filling one container. On the next, he notices a dark, irregular shape and sends it to the side for inspection.

Occasionally, the equipment hits immediate pay dirt. "There's a few times I've seen people standing in the inside of a container," Basham says. Police took the illegal immigrants into custody.

Other screening devices are being tested and deployed. In Norfolk, Va., Virginia International Terminals is installing radiation detectors on cranes, which will screen each container as it is offloaded. As of now, Customs agents use pager-sized radiation monitors that warn of excessive radiation as they walk by rows of containers. Some estimates put the cost of equipping all major ports with large scanners at \$5 billion.

BETTER INTELLIGENCE

Some say the solution would be to inspect all U.S.-bound containers before they leave a foreign port. But the difficulty of doing that may be too great.

"No one can argue against vetting cargo before it is shipped, but you need the political will and resources to do it," says John Hyde, general manager for security with Maersk Sealand, one of the world's largest shipping companies. "When you're talking about putting requirements on other sovereign nations, you can never be sure of what the reaction will be."

Many in industry and government, argue that there is no need to check each of the thousands of containers that arrive daily. They note that only 1,000 < less than 1% < of the 450,000 shippers who send cargo to the USA, account for nearly 60% of all containers shipped to this country. A majority of containers come from well-known and trusted companies that make regular weekly runs to U.S. ports. "It is impossible to inspect everything, but you don't need to inspect everything," Bonner says. "We are pretty good at being able to sort out what needs to be inspected."

To that end, the Coast Guard has joined with Customs, the Immigration and Naturalization Service and several intelligence agencies to begin sorting out information about containers before they arrive. After Sept. 11, the Coast Guard initiated the Ship Arrival Notification System, the nation's first centralized database on the movement of cargo ships.

Before this system, the Coast Guard captain in charge of security at each port only had to be notified of a shipment 24 hours before a cargo ship was due to arrive. Now that same information arrives 96 hours in advance at the Coast Guard's computer center in West Virginia. Information about the ship, its containers and crew is entered into a database that can be cross-referenced with immigration, FBI and Customs data.

The database allows many agencies to track the movement of cargo around the world. Officials hope it will help zero in on unknown shipping companies or a sudden shift in business practices or cargoes that makes no sense. "If a ship leaves Genoa, Italy with palm oil bound for a port that normally doesn't import palm oil, you might take a closer look," says Capt. Tony Regalbutto, the Coast Guard's director of port security.

Flynn sees this as the first step to a system that will track individual containers as they are loaded overseas and sent to U.S. ports. "People have compared this to a needle in a haystack problem," he says. "But if you develop good intelligence about what is

a threat and what isn't, you get the information down to a manageable number of targets."

[From Business Week, Apr. 1, 2002]

COMMENTARY: FREIGHT TRANSPORT: SAFE FROM TERROR?

(By Lorraine Woellert)

With its heavy traffic and massive chemical-storage tanks, the Port of Houston would seem a tempting target for terrorists. Touring the site in January, Senator John Breaux (D-La.) asked what had been done to protect the 25-mile-long seaway. A Coast Guard official assured him that the harbor had been declared a security zone. Breaux was unimpressed. "That's like putting a 'No Trespassing' sign on a nuclear reactor," he said.

In the wake of the September 11 attacks, Washington scrambled to shore up aviation security with tough new passenger- and baggage-screening laws and criminal-background checks on airport workers. But half a year later, U.S. land and sea borders remain almost as vulnerable as ever. Lawmakers hot to jump on the homeland-security bandwagon a few months ago have succumbed to inertia, leaving the nation's most at-risk transportation systems unprotected. "There has been a gross lack of focus," says Edward Wytkind, executive director of the AFL-CIO's transportation-trades division.

Altogether, trains, trucks, and ships move more than \$1 trillion worth of freight—about 99% of all U.S. cargo—into the country every year. Seaports, which handle some \$700 billion of that cargo, are the first line of vulnerability. If a disruption at one of the country's 361 ports leads the U.S. government to shut them down the way it grounded air traffic in September, it would bring some \$2 billion a day in seaborne trade to a dead stop and instantly cripple the domestic economy.

Today, port "security" means little more than a few miles of fencing and the occasional container search. Despite stepped-up patrols by Coast Guard and Customs agents after September 11, ships sail freely in and out of the nation's inland and coastal ports. The network relies on an honor system: It's up to carriers to announce their arrivals and disclose their hauls. Federal agents search only about 2% of the 11 million containers that make their way through the U.S. maritime system each year—double the pre-September 11 rate but still frighteningly low. "You have a ship with 7,000 containers on it, and what do we do? Check the manifest," laments Representative Don Young (R-Ala.), chair of the House Transportation & Infrastructure Committee, which is working on a port-security bill. "We're taking containers from Pakistan, and we don't know what's in them."

Lawmakers may be indignant, but their efforts to plug security gaps have been few and ill-fated. In December, the Senate, led by Commerce Committee Chairman Earnest F. Hollings (D-S.C.), passed a \$4 billion wish list of grants and loans to buy equipment to search more incoming cargo containers. Hollings' bill also would toughen hiring standards by requiring maritime workers to pass a criminal-background check similar to one imposed on nearly all airport workers.

However, the idea of eliminating felons from the workforce, a provision that sailed through Congress as part of an aviation-security bill last year, has come under fire from labor, including the Teamsters and the AFL-CIO-affiliated longshoremen. They say requiring no felony convictions as a prerequisite to holding a job amounts to double jeopardy for workers who have already paid their dues to society.

Industry has its own problems with the idea. As a major player at U.S. ports, the

American Trucking Assn. supports criminal-background checks but fears its members could be sued by disgruntled job applicants denied work because of something that showed up on their record. The ATA wants protection from liability. It also worries that a background check involving multiple agencies will prove time-consuming and costly.

In the House, Young has labeled the Hollings measure "stupid" because it puts the onus on the U.S. government to search every incoming vessel instead of forcing overseas transportation centers such as China and Panama to boost their own security. But Young's vision has problems of its own. He is seeking to establish an entirely new cargo-information tracking system under the Transportation Dept., duplicating work already being done by Customs and adding another layer to the multi-agency bureaucracy that now regulates container traffic. "Neither shippers, carriers, nor the government would be served by competing cargo-information systems," says Christopher L. Koch, president and CEO of the World Shipping Council in Washington.

Lawmakers—lacking the attention span or the willpower necessary to sort out freight's complexities—seem inclined to settle on politically expedient legislation that emphasizes high-tech gadgetry, spot container searches, and other piecemeal fixes. Such an approach could derail container-traffic flow as dramatically as a terrorist attack. "It would grind the U.S. economy to a halt," says Jonathan Gold, trade-policy director at the International Mass Retailers Assn.

As Congress treads water, the next-best option is emerging in the U.N., where the Coast Guard is pushing new international standards for container inspection, worker licensing, sea marshals, and a long-overdue system for tracking ships at sea. It's an ambitious goal, and one that requires U.S. cooperation. "If we ask these foreign ports to put security measures in place, then we have to be prepared to do the same thing here," Fold says. Whether it's motivated by fear or by shame, Congress must push harder for secure transportation systems.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. It is my understanding from leadership that the vote is now going to take place at 11:15. I ask unanimous consent that the remaining time be equally divided between now and 11:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I yield to the Senator from Alaska such time as he may consume.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Aviation Security Act of 2001 came in the immediate wake of the September 11 terrorist attacks and we may soon send to the President for his signature the bill creating the Department of Homeland Security. The Maritime and Transportation Security Act of 2002 is another important piece of national security legislation that will provide the organizational structure, coordination and planning needed to safeguard our Nation's ports. I thank Senator HOLLINGS, Senator McCAIN and Congressman DON YOUNG for their tireless efforts to move this legislation through Congress.

Under the Act, initial vulnerability assessments will be made to determine vessels and ports that pose a high risk of being involved in a marine transportation security incident. Attention will be given to deterring and responding to such incidents, and an overall evaluation will be provided on the potential threat level of maritime terrorist attacks.

This port security assessment is imperative for our State of Alaska, which has roughly one-half the coastline in the United States. Alaska's economy and quality of life are directly related to the functionality of its numerous ports. The majority of our Alaskan communities, including Juneau our State Capital, are not on the road system and depend almost exclusively on marine trade for the delivery of basic goods. A terrorist attack at a port in Alaska, or anywhere on the West Coast, would cause significant interruptions in maritime service to our State, greatly affecting our way of life.

In addition, there are several other ports in Alaska vital to Alaska and the rest of the Nation. This is especially true of the Port of Valdez, which is the southern terminus of the 800 mile long Trans-Alaska oil pipeline. Valdez is an important off-loading terminal for our Nation's domestic energy supply. A terrorist incident here would impact U.S. oil production, without any question, and have a devastating effect on Alaska's fisheries. Dutch Harbor is consistently the top commercial fishing port in America, processing and shipping product to the rest of the world. Kodiak has the largest Coast Guard presence in the Nation and the Island of Kodiak has launch facilities that make it an important staging area for future military and NASA operations that are vital to our Nation's national missile defense system.

The Maritime and Transportation Security Act of 2002 also includes Coast Guard authorization for fiscal year 2003. This is extremely important for the continued success of the Coast Guard in its ever evolving and expanding role in securing our Nation's coastal boundaries.

I commend the chairman and the future chairman of the Commerce Committee for bringing this bill to the floor, and I support its immediate passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. REID. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. REID. For purposes of notifying Members of the Senate, there has been a train accident. I hope it is not serious, but we have a couple of people on the train. We are now in the process of working out a unanimous consent agreement to have the vote maybe 45 minutes later than scheduled.

Mr. HOLLINGS. We scheduled the vote for 11 a.m.

Mr. McCAIN. Actually, 11:15.

Mr. REID. It may be later than that.

Mr. HOLLINGS. I yield such time as he may consume to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank my distinguished chairman of the Commerce Committee for his involvement and his leadership in bringing this legislation to the floor, as well as the ranking member of the Commerce Committee, the Senator from Arizona, and everyone really who has been involved in this legislation.

Suffice it to say, the conditions in the world, and in the United States in particular, have changed dramatically since the events of 9/11. Things we took for granted, things we did not pay a great deal of attention to, are no longer the status quo. The Commerce Committee, to the credit of the leadership of our committee and Senator HOLLINGS, had taken up the concept of making sure our ports were more secure even before 9/11.

The Commerce Committee in August of 2001, before 9/11, passed a seaport security bill by a unanimous vote. The committee was clearly on top of potential problems before 9/11. But certainly after the events of 9/11 it became clear we needed to do more even than we originally had done in the legislation.

I have the privilege of chairing, under the Commerce Committee, the Subcommittee on Surface Transportation. At the suggestion of the chairman, it was determined we should have field hearings around the United States. We had field hearings in six different port cities in the country. We had hearings in the chairman's hometown of Charleston, SC, and the home of the Senator from Texas, the Port of Houston. We had hearings in the Port of New Orleans. We had hearings in Fort Lauderdale. We had hearings on the west coast. We had hearings on the gulf, Atlantic, and Pacific, to learn the conditions of the ports of the United States regarding security.

We found when everyone is in charge, no one is in charge. In a number of ports, the sheriff's department was involved in security. In some ports they had port security police partially in charge. In some areas they depended totally on the U.S. Coast Guard to do all the work—which they cannot do. Some had very lax security on the perimeter, on the shore surrounding the ports.

Every day, literally thousands and thousands of men and women drive trucks loaded with containers into port facilities. We need to know who they are. We need to know what their purpose in being there is. We need to know as much as we can about who comes and who exits these international ports.

It is very interesting how commerce works. One container can carry as much as 60,000 pounds of whatever you want to put in it. There are ships entering our ports and laying alongside the docks containing as much as 3,000

separate containers on one ship. Each container carried as much as 60,000 pounds of whatever someone wants to put in them.

The USS *Cole* had a small vessel pull alongside of it and blow a hole in the side of it, killing American sailors; one relatively small boat pulled right alongside the USS *Cole*, a military naval warship. At the same time, remember what happened in Oklahoma City. Approximately 15,000 pounds of explosives blew down the Federal Building with drastic consequences to human life and to the stability of that city, shaking the confidence of this Nation. One person with 15,000 pounds of explosives knocked down an entire Federal building.

One container has 60,000 pounds of product that can be put into a ship that may have 3,000 containers. The potential for damage if a terrorist wants to target one of the ports of this country by placing explosives in one of these containers is great.

We had the example of one Egyptian who took a container and practically made an apartment out of it. He got a container in the Middle East, had himself equipped with a cell phone, food, a bunk to sleep in, and literally was transported from the Middle East, through Italy, destined for Canada, and ultimately to the United States. Who knows what he was intent on doing? Again, one ship, with 3,000 containers; how do we determine what is in each container?

Some of our large container vessels pull alongside our ports. We saw in Houston, in the Port of New Orleans at the hearings we held, the Port of south Louisiana, the Port of Baton Rouge—there are miles and miles of ports—some of these ports have, right alongside them, a liquefied natural gas facility. Next to the liquefied natural gas facility there could be an oil and gas refinery. Imagine the damage that could occur with one container loaded with explosives in a ship docked alongside an LNG facility, which is next to an oil and gas refinery, which may be followed by several other chemical plants. One container exploding could set off a chain reaction with a great deal of damage and a great loss of life.

Some of our ports are located in urban areas. The Port of Houston, the Port of New Orleans, the Port of New York, the Port of New Jersey, the Port of Fort Lauderdale, the Port of Savannah, the Port of Charleston they are all located in urban areas. There is a grave potential for damage.

The point I make is that things have changed since 9/11. A port manager was asked: How do you secure vessels pulling alongside these LNG facilities? How do you assure they know what they are doing? How do you secure the area? This individual said: Well, we have a sign posted that says "No Trespassing." I doubt a person intent on blowing up a city or doing grave damage to one of our ports will be deterred by a sign that says "No Trespassing." They will not pay any attention to it.

The fact is we have to have people involved in security. We have to have people in a chain of command, people who know what they are doing, who is doing it, and what is the responsibility of each particular segment of law enforcement operations.

This legislation will help do that. This legislation for the first time will say every port in the United States of America will have to develop a comprehensive port security plan. Some of them have plans in place now, but I don't think they are as comprehensive as they need to be, and some have almost nothing. A comprehensive port security plan under the U.S. Coast Guard, working with the local port and local law enforcement officials, can design a plan that fits a particular port. What may be necessary in the Port of Savannah may not be necessary in the Port of Houston. What is necessary in the Port of Houston may not fit in the Port of Charleston. Each port has to have a plan designed to meet the needs of that particular area.

Not only do the operations along the water's edge have to be better secured, the entire facility has to be secured. As I said, we have literally thousands of incoming and outgoing trucks loaded with containers. We need to know who those people are bringing in the containers, what their purpose is. No longer can a port be a tourist attraction. No longer can someone say let's go to the port and see the ships. Unfortunately, times have changed. We need better security, better perimeter protection, better knowledge about the cargo on the ships, better knowledge of the crew on the ships.

We have transponders on airplanes. We have GPS systems in automobiles. There is no reason every ship that comes into an American port will not have a GPS system on it, an identification system on it, an automatic identification signal that can transport to the port authorities where that ship is at all times—not just when it comes in, but when it actually reaches the floor, while it is in port.

Senator GRAHAM, who has been instrumental in helping pass this legislation, raised at the press conference yesterday the concern about the vessel that came in from Haiti. That vessel did not just come close to the U.S. shores, it actually landed on the beaches of Key Biscayne, FL. As Senator GRAHAM has pointed out, instead of being a group of refugees, suppose it was a same-sized vessel, loaded with explosives, with a terrorist who was willing to commit suicide, who instead of dropping off several hundred refugees had pulled alongside one of the large buildings in the Port of Miami, or pulled alongside one of the cruise vessels loaded with passengers, and blew up his vessel and the vessels surrounding his vessel. That cannot be allowed to happen.

This legislation will help the ports do the job they need to do. Unfortunately, we do not have any funding other than

a grant program to the local ports. Most of the cost will have to be borne by the U.S. Coast Guard. I say to Senator HOLLINGS and those on the Appropriations Committee, it is going to be their great task to make sure we adequately fund the Coast Guard to carry out those plans, because they are going to cost more. We have to do a better job. It is going to cost money. What about the local ports? We talked about a user fee, which I thought was a better idea, to spread the cost across society. It would be very small if we did it that way, but that's not part of this bill. There are local grants that ports can apply for, because it is going to cost to do the security they need. I am hopeful that program will be sufficient in order to allow our ports to do the work that is needed.

This is a good piece of legislation. It can go a long way toward securing U.S. ports, which today are very vulnerable, which today, I would add, are potential targets. This legislation, when in place, will go a long way to providing the security of which we can all be proud.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I would first like to thank Senator HOLLINGS and Senator MCCAIN for helping us get this bill through the committee. Senator BREAUX's remarks were right on target. I hosted Senator BREAUX's hearing in Houston. He toured the Port of Houston with me. We saw firsthand what some of the problems are.

I have to say, I was very impressed with what the Port of Houston is doing on its own. Using its own resources, it has beefed up its patrols and its security guards. Certainly, the Coast Guard is more involved in checking manifests and the ships that come into the Port of Houston. But the fact is, the Port of Houston is the largest port in America in terms of foreign tonnage. It handles more than half of the Nation's petrochemical capacity. We certainly need Federal funding and support to make sure a port like this one, which is vulnerable, and presents such a risk, has a fully implemented security system.

I thank Senator BREAUX for coming to see firsthand this great port in my State, for looking at what they are doing on their own, and then realizing the need to give them added help through this port security bill. I am very pleased that we are taking this first step.

Due to the volume of hazardous materials, a terrorist attack in the Port of Houston could result in the loss of millions of lives. Of course, it would also interrupt our Nation's energy supplies, delivering a huge blow to our economy at a time when we certainly cannot afford any more economic disturbances. However, there are other ports as well in my State, and smaller ports throughout our Nation.

In my State of Texas we have Corpus Christi, Brownsville, Port Lavaca, Gal-

veston, Freeport, and Texas City. They each have different challenges. Some have to safeguard cruise ships. Cruise ships are a new, burgeoning tourist industry that is working particularly in Galveston. We are very happy about this, but it means we have to safeguard these cruise ships by taking similar security measures.

Texas City, on the other hand, faces the security challenge of screening cargo containers and shipping vessels on a shoestring budget. We have Brownsville and Corpus Christi that are becoming very important ports for Central and South American goods coming in. We are very pleased about that, but they too need security.

So this is a compromise bill. It lays the foundation for a port security system under the Transportation Security Administration. It requires security plans for every port, background checks for employees with access to secure areas, and improved identification technology for both individuals and vessels traveling in United States waters. The proposed Homeland Security Department would also be tasked to assess potential threats presented by security practices at foreign ports, so that we are able to find out if a foreign port is particularly lax. Then we would have to take extra steps for ships coming into the United States from that port, whether it is the port of origin or whether it is a through-port.

I think those are the steps we need to take. I support this compromise because certainly it is important to take these immediate first steps. However, I do not think the bill goes far enough. I am an original cosponsor, with Senator FEINSTEIN, of the Comprehensive Seaport and Container Security Act that would provide more resources and greater emphasis on port security. Our bill requires profiling of cargo containers and scrutiny of high-risk shippers.

We are not closing the book on port security with the passage of this compromise bill, but we are taking a major first step. I look forward to working with Senator MCCAIN, Senator HOLLINGS, Senator BREAUX, and others who are very concerned about the whole port security issue. In the next session, I look forward to really addressing the container cargo and other high-risk port needs, and to assure we do not have a void in our port areas. Senator STEVENS was saying the other night that 50 percent of the American people live within 50 miles of a port. That is a very important statistic. We have to check our ports, our people, and the goods coming into this country.

I am very pleased we have taken this first step, because what we have done in aviation certainly has been a huge improvement. Are we finished with aviation? No, we are not. But are our airports safer today than they were on 9/10/01? Yes, they are.

I travel as much as anybody in America, commuting back and forth to my home State every week. I see a significant difference in the quality of screening with the new Transportation Authority personnel. They are trained. They are polite. They are doing their jobs in a professional way and I am very proud of that. We need to do more and, hopefully, we are going to address some of the other aviation needs in the very near future. But right now we are addressing a major area of responsibility for our country and that is the security of our ports, the people, and the cargo that comes through our ports.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I will be brief. I came over from my committee meeting for two reasons. One is to compliment the chairman, the Senator from South Carolina. Frankly, were it not for his consistent and persistent efforts on security—port security and, I might add, rail security—we would not be standing here today. There is much to say about this legislation and I am not going to take the time now.

I do want to add one other point. I am sorry many more of my colleagues, understandably, are in committee meetings right now and are not here to hear this. We are taking the action that is necessary to deal with a legitimate and real security concern for America's ports. I might add there is more traffic up and down the Delaware River into Philadelphia, with oil traffic in particular, than I think almost any other place in the country. There are a number of refineries in my State and in the neighboring State of Pennsylvania and ports in New Jersey and Pennsylvania and Delaware. So this is very important to us.

But equally important to us is rail security. My friend, the Presiding Officer, a former Governor, knows about security, what the CIA indicated. I can publicly indicate it. They indicated the most likely target is going to be rail. Since 9/11, my friend from South Carolina passed out very significant rail security legislation—\$1.2 billion. It is a clearly documented need and an overwhelming concern, listed by the CIA as a likely target for terrorists—and we have done nothing on it. We have done nothing.

I realize it is a bit of a broken record. I have been on the floor many times speaking to this. But I just say we are going to rue the day we failed to take the action that has been documented which we need to take to enhance the security of our rail system.

Let me give you again two examples. Then I will cease. But I want the RECORD to show every day we wait, we are putting thousands of lives in jeopardy. When you say thousands of lives, what are you talking about, Senator? Right now, as we speak, there are more people in a tunnel on a train under New York City—at this moment—than

there are on five full 747 aircraft. Those tunnels were built at the turn of the century. They have no escape. They have no lighting. They have no ventilation. Immediately after the Civil War, the Baltimore tunnel was built for freight and passengers.

You may remember that a little over a year ago there was a fire in the Baltimore tunnel—just a regular old fire—no terrorist act. It shut down Baltimore. In that tunnel, there is nothing. It was cut through granite in 1869. Nothing has been done to that tunnel. Even its signal systems are not adequate. We know this. Contracts have already been let. We already have the design. There is no need for design work. It has already been done. We could literally start tomorrow.

My friend from South Carolina has documented all of this in his hearings. He has laid it out in spades. He has made it clear to everybody. But somehow we just think, OK, rail transportation is not very much. It is the ultimate stepchild, both in terms of our transportation network and in terms of security.

It has been over a year since my friend from South Carolina reported out a \$1.2 billion piece of legislation on security. I am not even talking about Amtrak—just basic security needs. We don't even have dogs available to sniff luggage in cars. There is nothing. There is virtually nothing at all.

I just want to say I am not going to be here saying I told you so, because that would be unfair. But we are making a serious mistake, totally ignoring what the CIA has publicly pointed out is a targeting concern, and what everybody knows; that is, the threat of terror and the richness of the targets available on the rail system.

I am all for this port security bill. I think it is a very positive step forward. But I just say to my friends we are making a tragic mistake having held up now for the better part of a year the rail security legislation that was passed out of committee and for which I think there is a consensus. We can't get a vote on it. I think it is a tragic mistake.

Again, this is not in any way suggesting my State is very much impacted by this port security legislation. We have thousands upon thousands of containers coming into my little State. We have major export and import of automobiles coming in the Port of Wilmington. We are within the shadow of the Port of Philadelphia in Camden. More oil comes up the Delaware River than I think any other estuary, taking care of the Delaware Valley where there are over 10 million people.

I am in no way suggesting we shouldn't be doing what we are doing. I am suggesting we are making a tragic mistake by not acting on rail security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself such time as I may take.

I am very surprised by the comments made by the Senator from Delaware. The fact is we did pass out a rail security bill. The Senator from Delaware wanted to add on billions of dollars for all kinds of assistance to railroads, which has had very little to do with security. I am all for security. But the Senator from Delaware and I are known for our differences of opinion about Amtrak and how much of American tax dollars should be spent on Amtrak. In fact, it has been about \$20 billion to \$30 billion in the last few years. We are still subsidizing rail routes to the tune of \$200 to \$300 per passenger.

But the fact is the reason we don't have a rail security bill is because of the desire to add on the bill billions and billions that have nothing to do with rail security.

If the Senator from Delaware wants to pass our version of the bill which has nothing to do with the additional billions that are the subject of debate on the transportation bill and other bills, that is fine. But the reason we are making a tragic mistake here is because we didn't move forward just rail security. There was a strong desire by supporters of Amtrak to lard onto it billions of dollars of additional spending having nothing to do with rail security.

I look forward to working with the Senator from Delaware. They should be separated. Subsidization forever of Amtrak is not something this Senator will ever support when we subsidize rail routes, in the case of a line in Wisconsin—recently terminated, thank God—at \$2,000 per passenger. There is something wrong with the way Amtrak is being subsidized.

I look forward to working with the Senator from Delaware. But let us have no doubt as to why rail security didn't pass this floor with this Senator's endorsement, which is because of the additional billions of dollars that were going to be added onto it.

Mr. MCCAIN. Mr. President, that has nothing to do with rail security. And as incoming chairman of the committee, I will be glad to review this issue of Amtrak. We will get the GAO up again, and the GAO will talk about the incredible subsidization of Amtrak which costs American taxpayers billions and billions of dollars per passenger. That is the subject of another day of debate.

But to come on this floor and say that we are making a "tragic mistake," in the words of the Senator from Delaware, by not passing the rail security bill, I say it is a tragic mistake to add billions of dollars of pork onto rail security when rail security should have been the primary and only focus of a rail security bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I agree this is not the moment for debate on that. Let me respond very briefly.

The bill was \$1.2 billion and \$900 million was for the tunnels, period. I don't know where the additional billions of

dollars come from. OK, \$1.2 billion. Subtract \$900 million. You are then talking about \$300 million. Of that, the money went to a lot of things that relate to dogs, sniffers, and a whole range of additional Amtrak police. We can argue about rail signal systems and other things, which I think are essential. Let us get the numbers straight. We are talking about \$1.2 billion. Usually what we do when we have billions like this is we disagree. We at least bring them up and debate them on the floor. We can't even get the bill brought up and debated on the floor.

If my friend from Arizona—and he is my friend—is correct about billions of dollars of subsidization to Amtrak, then I am sure he will prevail when we talk about a security bill. But I respectfully suggest that is not the case.

No. 2, this really is for another day. I will just take 2 minutes.

We talk about, for example, the Wisconsin line. We do airports. We pay \$150 million a year. I think we added another \$100 million—don't hold me to that—to go into something like 350 cities where nobody wants to fly, nobody wants to go. We pay the airlines. We subsidize them to go into Bemidji, MN. I don't know where they go—places that no one wants to fly into or out of. We subsidize them with 150 million bucks. We do that. We just roll over. That is no problem.

At any rate, that is for another day. But in the meantime, I hope we will at least be able to get to the point where we can debate on the floor here the rail security legislation and not prevent it from being discussed on the floor unless we have what individual Members want in a bill before it even gets to the floor.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I would like to briefly speak in support of this legislation.

I come from a coastal area. When I was in the House of Representatives, I served on the Merchant Marine and Fisheries Committee and was a member of the Commerce Committee. I pay close attention to the maritime industry and what is happening with our ports and our ships and shipping industry.

I am very pleased to see this legislation has been brought to the floor. I commend the chairman of the committee, Senator HOLLINGS, and the ranking member, Senator McCAIN, as well as others who were involved in working through some of the difficulties to produce results. Senator STEVENS was involved in that, and Congressman YOUNG on the House side. I had more than one conversation with Senator THOMAS and Senators BAUCUS and GRASSLEY.

A lot of people worked to help make the production of this legislation possible. I must say, I am amazed it took that kind of a heave because this is such necessary legislation. We prob-

ably could have and should have done it last summer. There is no use reviewing all of what went into that, but there is no doubt in my mind that we need to pay attention to port security. That is a place where we could have vulnerability.

I believe we are making progress in using sophisticated technology to begin to address those threats, but, still, we need to pay attention to this area and make sure we are doing all we can to protect the American people from terrorist attack or exploitation in our ports.

The vast majority of the U.S. international trade flows through our ports. And I have worried that some enterprising terrorist could put some very devastating material on a tramp steamer or a boat that would come into South Carolina, New York, Baltimore, or Pascagoula, MS, and have a devastating impact on those communities. So we need to think through this.

Over the past few decades, international and domestic port transportation systems have responded to ever-increasing volumes of two-way trade by increasing their efficiency at moving cargo. The challenge before us, though, is to take steps to find out what is on those ships, what is in that cargo. We have to look at the port of demarcation. How do we deal with them on the high seas? How do we make sure a threat is properly checked into or assessed? What do we do once they get into the ports?

So this is important legislation. It is not to diminish the threat in all the areas of transportation. We have to think about and review all of them: aviation, trucking, automobiles, points of entry on land. But this is one area in which we need to take action, and that is what the legislation does.

The administration took immediate steps to increase the security for our maritime transportation system. The Coast Guard dedicated increasing resources to protecting our ports. The Customs Service initiated programs to improve its awareness of all cargo movements into the United States and to push its inbound cargo screening efforts out to foreign ports.

The Maritime Transportation Security Act of 2002, that we are considering now, provides new direction to the administration and additional authority so we can deal with this area in a comprehensive manner.

The bill establishes a system of national, area, port, and waterfront facility and vessel security and response planning and involves the State officials, local officials, and Federal officials and industry representatives.

The bill improves the authority for the Customs Service to collect cargo information. It promotes the sharing of intelligence information among agencies involved in maritime transportation security and close coordination of security planning and operations among those agencies.

To me, it is unfathomable that they could not do that anyway; that is, ex-

change information and get information. This bill will make sure that authority is there.

The bill establishes a national transportation security card system to control personnel access to secure maritime terminal areas, including performing background checks on applicants. Again, I cannot believe we actually did not already have a system such as this in place. I hope the administration will, and I urge them to, work closely with the maritime industry, especially in those sectors with frequent personnel turnover, such as the inland waterway towing vessel industry, to address their needs for quick approval of employee access to these secure areas. We do not want to become another bureaucratic nightmare and maze of delay, but this system needs to be put in place.

So I do believe this bill will help us to assess the effectiveness of our antiterrorism measures at foreign ports and to work with those ports to improve those measures. It will provide additional funds in this area. It will give the Coast Guard more authority and authorizes more assistance as they deal with marine safety and the maritime policy improvements.

So this bill is a good achievement. I am glad we are getting it done. It may wind up being one of only four or five conference reports on which we do complete action before we leave at the end of this session, but this is one of which we should be proud.

I commend the chairman, once again, for being willing to take my calls and sit down and say: Can't we just work together? We did and we got the results. So I thank you, Mr. Chairman.

Mr. HOLLINGS. Will the Senator yield?

Mr. LOTT. I yield to the Senator from South Carolina.

Mr. HOLLINGS. I was asked at a news conference yesterday, did we capitulate on account of the elections? I said no. Under Senator LOTT's leadership, we capitulated before the election. You got us together, and I really thank the Senator on behalf of all of us.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield such time as is necessary to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank our distinguished chairman, our distinguished now minority leader, and our distinguished ranking member for this legislation of vital importance to my community of New York, one of the largest ports in the world.

We all know what the bill does. And all of these things are good steps forward. I particularly thank Chairman HOLLINGS for his steadfastness on this bill.

All of us probably would have wanted a little more in this bill, and in a

minute I am going to talk about one particular area of importance to me. But one of our jobs here is not to let the perfect be the enemy of the good.

We need to do so much in our ports, and this is a good first step. The idea of assessing what our problems are, the idea of having a security identification card, background checks, and all of these other things I think are extremely important in terms of getting the needed technology because the terrorists are going to look for our most vulnerable pressure points.

We are doing the job on tightening up air security. I flew in from New York this morning. I saw the new Federal people there. It is better. I do not know if it is good enough yet, but it is better. But with our ports, we have virtually done nothing. This bill is a very good first step. And, again, I thank our chairman.

I want to talk about one area, and that is, the authorizing language is in the bill we worked on, but, unfortunately, not all the money is there to do it. I will try to alert my colleagues to this.

My great nightmare, as I think of how the terrorists would come back and strike us again—it might be al-Qaida; it might be Iraq; but who knows, it could be someone else, Chechens, East Timorese—but someone takes a nuclear weapon and smuggles it into one of the containers that come into one of our ports over our northern or southern borders and then detonates it in a huge population area. As horrible as 9/11 was—and, believe me, I know that horror—this would be much worse.

So we should be doing everything we can to make sure our ports are secure and to prevent nuclear weapons from being smuggled into our country, particularly in one of the large containers that come, by the thousands, to our ports on the east coast and west coast and the containers that come over our borders.

I have talked to experts, and they have said there is good news. The good news is that every nuclear device emits gamma rays, and gamma rays go through almost everything, so they are detectable. Only lead can stop it. And that can be dealt with by having an x-ray detector there as well.

The good news, in addition, was that at our national energy labs, such as Brookhaven and Argonne Forest, have such detection devices that work 50 or 60 feet away. Unfortunately, the bad news is the only practical commercial device is a Geiger counter. A Geiger counter works from 2 or 3 feet away. And it is virtually impossible for us to send personnel on to every container that comes to our ports or across our borders and hold that Geiger counter a couple of inches from each of the scores of crates that are on each container.

As I talked further to these experts, they said, for a relatively small sum, they could take the radiation detectors that now exist in our cyclotrons and

can detect radiation 50 or 60 feet away and make them practical; namely, they have to make them smaller because they are very large, and they have to make them less delicate because they could bounce around. But imagine if we had such detectors. We could put them on every crane that loads or unloads a container. We could put them on every tollbooth that a truck, over the Mexican border or Canadian border, drives by and prevent a nuclear weapon from coming in. And even if these terrorists were so sophisticated that they surrounded the bomb in lead, we put an x ray next to it, and the x ray could detect the lead, and we know something is up, and we inspect the crate.

I brought this to the attention of my friend from Virginia, Senator WARNER, and we introduced legislation that would do just this. We worked long and hard to try to get it as part of the homeland security bill, but that did not happen. But the knight on the white horse in this area was the chairman from South Carolina because he put the language that we devised, with some suggestions by the Senator from Arizona and some by his own folks, in this bill.

We are now authorized to do research to figure out a way to detect nuclear devices from 50 or 60 or 70 feet away to prevent—God forbid—somebody from bringing in a device.

There is only one problem. I regret to bring this up, but it is true. The Senator from South Carolina has made the fight. We need about \$250 million to come up with such a device. Unfortunately, only \$90 million is authorized for the entire research and development section of this bill. This is not a frivolous expenditure. This is not pork. This is vital to our security.

I am supportive of this bill. I am grateful to the chairman. He made the fight. I don't care if the Government or the private sector pays for this; somebody should be paying for this research because we don't want to wake up one morning and find a device smuggled into our country when we can stop it. That is the frustrating thing. We can stop it. This is not one of those things like cancer where we can put billions of dollars in and hope and pray that research finds a cure and stops the disease.

We know if we put in the money, these devices, which already exist, can be practicalized so they can be put on every crane and on every toll booth where a truck with a container comes over our borders.

I hope when we come back next year—this is hardly a partisan issue; as I said, it was the Senator from Virginia and myself who spearheaded this—that we will put new effort into authorizing and appropriating a few more dollars so the research that needs to be done to make us nuclear secure is done.

I supported our President's motion for the war on Iraq. One of the reasons I did was I was afraid that Iraq would develop nuclear weapons down the

road, and we couldn't allow them to do that because they might be smuggled in here. It is not going to be just Iraq. In our brave new world, our post-9/11 world, other groups can come up with these devices. It is our solemn obligation to do everything we can to prevent them from being smuggled in.

The bill the chairman has sponsored is a great first step. I hope with his leadership and that of the Senator from Arizona, who made many suggestions to this part of our bill, that next year we will move forward to appropriate the necessary dollars to get this done quickly and make our country safe.

I yield back the time to the Senator from South Carolina.

Mrs. FEINSTEIN. Mr. President, I rise today to speak on the Maritime Transportation Security Act of 2002.

I applaud Senator HOLLINGS, Chairman of the Commerce Committee, Senator MCCAIN, the Ranking Member, and other members of the Port Security Conference Committee for their efforts, but I believe this legislation can best be summed up as "too little, too late."

The Senate passed Port Security Legislation last December, yet only now, almost a year later, is the Congress sending this bill to the President. Moreover, once this legislation passes, it will be years before the Department of Transportation and the Department of Homeland Security implement effective security measures at our 361 seaports.

I would have preferred seeing the Conferees embrace other ideas to improve port security such as the legislation I introduced with Senators KYL, SNOWE, and HUTCHISON. Instead, the Conferees rejected many proposals on port security and slimmed down the Senate Bill so that it is now one part security and three parts Coast Guard authorization language that has nothing to do with security.

I believe Congress "missed the boat" with this legislation and squandered an opportunity to take aggressive action to erect a formidable barrier at our seaports.

We know ports present optimal targets to terrorists. And we know al-Qaida operatives are coming after us. As CIA director George Tenet said recently before the Intelligence Committee, of which I am a member: "al-Qaida is in an execution phase and intends to strike us both here and overseas; that's unambiguous as far as I am concerned."

And this week we learned of a new tape that seems to be by Osama bin Laden, which made clear al-Qaida intends to go after us again soon.

The October 2002 report by Gary Hart and Warren Rudman demonstrates that our ports remain especially vulnerable even more than a year after September 11. The report points out, "Only the tiniest percentage of containers, ships, trucks, and trains that enter the United States each day are subject to

examination, and a weapon of mass destruction could well be hidden among this cargo.”

The Hart-Rudman report recommends revising transportation security because “the vulnerabilities are greater and the stakes are higher in the sea and land modes than in commercial aviation. Systems such as those used in the aviation sector, which start from the assumption that every passenger and every bag of luggage poses an equal risk, must give way to more intelligence-driven and layered security approaches that emphasize prescreening and monitoring based on risk-criteria.”

Since we cannot inspect every ship and every container, I introduced the “Comprehensive Seaport and Container Security Act” earlier this year to establish a system for container profiling. The Feinstein-Kyl-Snowe-Hutchison Port Security Bill would also push U.S. security scrutiny beyond our Nation’s borders to intercept cargo before it arrives near America’s shores.

This complements the strategy Customs Commissioner Robert C. Bonner is in the process of implementing. To prevent a weapon of mass destruction from getting to the U.S. in the first place, Customs has entered into formal agreements with a handful of foreign governments to station U.S. inspectors at ports overseas to profile high risk cargo and target suspicious shipments for inspection.

The Customs Service is working to put groups of U.S. experts at the top 20 ports as soon as possible and they are moving at an impressive pace.

Hitting the 20 port threshold is essential because together, these ports account for approximately 70 percent of the 5.7 million containers shipped by sea to the U.S. annually.

We have known for a long time that America’s ports needed an extensive security strategy and upgrade. In the fall of 2000, a comprehensive report was issued by the “Interagency Commission on Crime and Security in U.S. Seaports.” I testified before the Commission and I believe the group’s report serves as a very thorough primer on seaport security issues.

While often out of the public eye, ports across the United States are our nation’s economic gateways. Every year U.S. ports handle over 800 million tons of cargo valued at approximately \$600 billion. Excluding trade with Mexico and Canada, America’s ports handle 95 percent of U.S. trade. Two of the busiest ports in the nation are in California, at Los Angeles / Long Beach and at Oakland.

S. 1214, the Senate-passed bill written by Chairman HOLLINGS and members of the Commerce Committee, was drafted before the September 11 terrorist attacks to incorporate the recommendations made by the Interagency Commission into law. While changes were made to this legislation before the Senate passed it in December of 2001 to

focus more on antiterrorism, I believe the Conferees could have taken more aggressive action to improve the bill.

I would like to cite a few examples to show how this Conference Report is weaker than the Comprehensive Seaport and Container Security Act I have introduced.

The Feinstein-Kyl-Snowe-Hutchison port security bill establishes a comprehensive risk profiling plan for the Customs Service to focus their limited inspection capabilities on high-risk cargo containers.

However, the only mention of such a plan in the Maritime Security Act conference report is this paragraph of report language: “A vessel screening system which provides shipping intelligence and analysis can be utilized to identify those vessels requiring close inspection by the Coast Guard and other agencies. We urge the Coast Guard and port authorities to include vessel risk profiling in their enhanced security procedures.”

The Feinstein-Kyl-Snowe-Hutchison port security bill strengthens U.S. security scrutiny beyond our Nation’s borders to monitor and inspect cargo and containers before they arrive on America’s shores.

However, the conferees of this Maritime Transportation Security Act only required foreign ports to be evaluated and authorized a program for U.S. officials to train foreign security officers abroad.

The Feinstein-Kyl-Snowe-Hutchison port security bill imposes steep monetary sanctions and criminal penalties for incorrect cargo manifest information or failure to comply with filing requirements.

However, the conferees of this Maritime Transportation Security Act only authorized civil penalties of up to \$25,000 for a violation.

The Feinstein-Kyl-Snowe-Hutchison port security bill requires the Transportation Security Administration to set standards to ensure each port has a secure perimeter, secure parking facilities, controlled points of access into the port, sufficient lighting, buildings with secure doors and windows and an alarm.

However, the conferees of this Maritime Transportation Security Act only required vulnerability assessments and a National Maritime Transportation Security Plan.

The Feinstein-Kyl-Snowe-Hutchison port security bill requires the use of high security seals and electronic tags on all containers coming into the U.S. and requires empty containers destined for U.S. ports to be sealed.

However, the conferees of this Maritime Transportation Security Act only mandated the development of performance standards for seals and locks on cargo containers.

I have pointed out several areas where I believe the Conferees could have taken more aggressive steps, but I do want to endorse many of the security measures in this conference report

such as the requirement for all workers in a secure area of the port to have a transportation security card and I support the \$15 million annual authorization for 5 years to fund research and development efforts.

I thank Senator HOLLINGS, Senator MCCAIN, and other members of the Commerce Committee for the work they have done on this important issue.

I look forward to continue to work with the chairman and ranking member of the Commerce Committee to address the threats to our ports. I believe additional legislation will be essential to follow up on this security bill. We must be better prepared for a terrorist attack than we were last year.

Mr. KERRY. Mr. President, I would like to take this opportunity to congratulate Senator HOLLINGS and Senator MCCAIN the Chairman and Ranking Member of the Commerce Committee for reaching an agreement with the House on the Maritime Transportation and Security Act of 2002, S. 1214. I am proud to have served as a conferee on this very important legislation that will significantly improve security in our Nations seaports. In addition the bill would reauthorize the Coast Guard, a major component in improving security in our ports and harbors.

As Chairman of the Oceans, Fisheries and Atmosphere Subcommittee, I had the opportunity to chair an oversight hearing on the Coast Guard’s role in improving maritime security after the terrible attacks of September 11. As Senators HOLLINGS and MCCAIN well know, even before September 11, our maritime and port security was in sorry shape.

I wish to thank Chairman HOLLINGS for including three provisions from S. 1587, the Port Threat and Security Act, which I introduced last year in order to improve safety and security in our nations ports.

The first provision requires an annual report to the Congress that would list those nations whose vessels the Coast Guard has found would pose a risk to our ports, or that have presented our government with false, partial, or fraudulent information concerning cargo manifests, crew identity, or registration of the vessel. In addition the report would identify nations that do not exercise adequate control over their vessel registration and ownership procedures, particularly with respect to security issues. We need hard information like this if we are to force “flag of convenience” nations from providing cover to criminals and terrorists. This is very important as Osama bin Laden has used flags of convenience to hide his ownership in various international shipping interests. In 1998, one of bin Laden’s cargo freighters unloaded supplies in Kenya for the suicide bombers who later destroyed the embassies in Kenya and Tanzania.

Also included from S. 1587, was my proposal on Sea Marshals. Sea Marshals would be authorized to be used on

vessels as well as shore facilities both private and public to ensure safe transportation of high interest vessels into our ports, such as liquefied natural gas tankers and cruise ships. In Boston we have an LNG facility in the middle of Boston Harbor. Obviously we need increased security each time an LNG tanker offloads natural gas. Prior to September 11 these vessels were escorted by Coast Guard vessels into the port but no armed guards were present on the vessel. I strongly believe that having armed personnel, such as sea marshals, on these high interest vessels is very important and will considerably increase security in our Nation's ports, including Boston. The ability of terrorists to board a vessel and cause a deliberate release of LNG or gasoline for that matter is very real. Sea marshals will make it much more difficult for this to happen. In addition, this legislation would require a feasibility study to determine the potential to use other Federal, State or local law enforcement personnel as well as documented United States Merchant Marine personnel as sea marshals in the future.

Finally, this legislation includes a provision that would require the administration to begin a vigorous foreign port threat assessment program. Inspectors would evaluate the effectiveness of security practices in both cargo and passenger terminals around the world. This legislation allows the United States to prohibit any vessel from entering the United States if the vessel has embarked passengers or cargo from foreign ports that do not have adequate security measures as determined by our port threat assessment teams. Last year, inspectors in Italy checking a container bound for Canada discovered a member of the al-Qaida terrorist organization hiding in a shipping container equipped with a bed and makeshift bathroom. The suspect, an Egyptian in a business suit, had with him a Canadian passport, a laptop computer, two cell phones, airport maps, security passes for airports in three countries and a certificate proclaiming him an airplane mechanic. We simply cannot allow any country to have such poor security such that terrorists can stow away in a shipping container.

As I mentioned earlier this bill would also reauthorize the Coast Guard. The events of September 11 resulted in a new normalcy for the Coast Guard as port security and homeland defense missions rose to the forefront and our country realized the security shortcomings in our ports. This legislation recognizes this fact and authorizes nearly \$6 billion for the Coast Guard in 2003. Obviously this country needs a viable and robust Coast Guard to safeguard our ports, and to ensure that commerce and trade can continue to occur in our ports, safely, efficiently and most importantly without terrorist incident.

At the same time, the Coast Guard also has unique missions not covered

by any other federal agency. It is the only U.S. military service with domestic law enforcement authority. It has the primary responsibility of enforcing U.S. fisheries laws, carrying out drug interdiction at sea, and protecting the marine environment against pollution. I want to make it clear that all of these missions are important. And these traditional missions are suffering from resource constraints.

This bill would also increase authorization for Coast Guard personnel from approximately 35,000 today, which is roughly the size of the New York City Police Department to 45,500 by the end of this fiscal year.

This bill would authorize \$4.3 billion for operating expenses in FY2003. Operating expenses cover all of the various activities of the Coast Guard, from boater safety and drug interdiction to port security, and adequate authorization is necessary to ensure that all of these Coast Guard operations can be carried out effectively.

This bill would also authorize \$725 million in FY2003 for acquisition, construction, and improvement of equipment and facilities. Most of this funding will be used to fund the Deepwater Project, a long overdue modernization of the Coast Guard's Deepwater assets. The Coast Guard is the world's 7th largest navy yet they operate a fleet of ships that rank 39th in age out of the world's 41 maritime fleets. The Coast Guard is operating World War II-era cutters in the deepwater environment to perform crucial environmental protection, national defense, and law enforcement missions. In addition, Coast Guard aircraft, which are operated in a maintenance-intensive salt water environment, are reaching the end of their useful lives as well. Besides high operating costs, these assets are technologically and operationally obsolete. The Deepwater program will not only reduce operational and maintenance costs, but will significantly improve upon current command and control capabilities in the deepwater environment. I am delighted to see this program moving forward.

Every day on average, the Coast Guard saves 14 lives, seizes 209 pounds of marijuana and 170 pounds of cocaine, and saves \$2.5 million in property. Through boater safety programs and maintenance of an extensive network of aids to navigation, the Coast Guard protects thousands of other people engaged in coastwise trade, commercial fishing activities, and recreational boating. In addition, the Coast Guard has a role to play in Homeland Defense. It is vitally important that we adequately fund and staff all of the missions of the Coast Guard. This legislation, while not as generous as many of us would like, is a step in the right direction.

Ms. SNOWE. Mr. President, I rise today in support of the legislation before the Senate which is designed to overhaul port security in this Nation. Port security is a national imperative

in the wake of September 11. Frankly, I think it is regrettable that it has taken us this long to get to this point. After all, like aviation security, port security is national security, and it must now be viewed as such. We have to assume that every facet of our transportation system remains a target for terrorism. Last year, we moved swiftly in an effort to close many of the gaps in our aviation security system, but we still have a long way to go on port and maritime security.

We cannot underestimate the importance of this issue. A terrorist attack at a major port could cost countless lives and have a devastating impact on the national and global economy. As U.S. Customs Service Commissioner Robert Bonner said recently, "if terrorists used a sea container to conceal a weapon of mass destruction and detonated it on arrival at a port, the impact on global trade and the global economy could be immediate and devastating—all nations would be affected." At the same time, the 2000 interagency commission report found the state of security in U.S. seaports generally ranges from poor to fair.

Remember, our ports link us to the world. They serve a crucial purpose. They give us access to global markets. Ships carry goods totaling 95 percent of our foreign trade, excluding that with Canada and Mexico. Furthermore, the volume of goods passing through our ports is expected to double in the next 20 years. United States waters also sustain a \$24 billion commercial fishing industry and a \$71 billion recreational and tourism industry.

As a member of the Senate Committee on Commerce, Science, and Transportation and the port security conference committee, I am aware of the important responsibility we have to turn this situation around. And we can only achieve this with a comprehensive, exhaustive approach that recognizes that the entire system is only as strong as its weakest link.

The conference report before us today represents a multifaceted approach that runs the gamut and sets the stage for a complete reevaluation of port security from the ground up. We have an incredible amount of collective talent and experience in this country, and I hope that it can all be brought together to effect the kind of changes we need to fix the deficiencies brought tragically home by 9/11.

First and foremost, it is vital that we ensure that the sum total of the knowledge and resources of Federal, State, and local governments are brought to bear to both prevent disasters and respond to them. In that light, coordination is critical, and the measure before us today provides for greater coordination in this regard. In the wake of the September 11 attacks, we saw outstanding responses at the local level, but these actions were ad hoc—there were no national, standardized directives that could have been quickly disseminated and uniformly understood

and applied—in contrast to the FAA directive to ground all planes, which was enormously successful.

Well, I do not think there is any doubt we can no longer afford such a piecemeal approach—if we are talking about our national security, which we are, we are talking about the need to establish a national response.

To confront the challenge of terrorism aimed at our maritime sector, we need better information, better information sharing, and more coordination. We need to enhance our ability to track cargo, and know what is being moved, with more inspectors, and improved technology. And we need stringent international standards, so we stop terrorist plots before they reach our shores.

Security coordination between Federal, State, and local authorities has been one of my top priorities in the aftermath of September 11, and I am pleased that the conference report greatly enhances coordination with respect to port security. The bill requires comprehensive security and incident response plans for the Nation's 361 commercial seaports. It also establishes a national maritime security committee and local maritime security committees at each local port to better coordinate efforts and share critical information and intelligence.

I am particularly pleased that the conference report includes provisions that build on legislation I introduced last fall to require ships to electronically send their cargo manifests to a port before gaining clearance to enter. The port security conference report expands on cargo security measures contained in the Trade Act of 2002 by requiring that cargo and crew member information be relayed to port security authorities prior to a cargo carrier's arrival in the United States. The U.S. Customs Service would determine how far in advance to require such pre-arrival information.

The bill will also provide grants to local port security authorities, as well as \$15 million annually during fiscal years 2003 through 2008 for research and development grants for port security. I have seen firsthand how important these port security grants are. In my home State of Maine, the city of Portland recently received a Federal grant of \$175,000 for port security upgrades. However, the fact is that ports in Maine and across the country still need additional security-related funding.

The conference report also addresses the complex issue of access to secure areas of a port by requiring the Secretary of Transportation to design a comprehensive credentialing process for port workers. The bill establishes a national standard for biometric security cards for transportation workers, and would allow the Secretary to determine whether an individual posed enough of a security risk to be denied an identification card.

Finally, as ranking member of the commerce Committee's Subcommittee

on Oceans, Atmosphere, and Fisheries, I am pleased that this conference agreement includes provisions from my Coast Guard authorization bill. The conference report will provide the Coast Guard with the funding and personnel authorization levels it needs as well as over 30 other provisions important to the Coast Guard and the maritime community. This is the first time the Coast Guard has had an authorization bill since 1998 and it was drafted to provide the Coast Guard with the tools it needs to operate in our post-September 11 reality.

The legislation provides a 1-year authorization for the Coast Guard to reflect the agency's changing priorities since September 11, including authorization for \$1 billion in new funding, as President Bush proposed in Portland, ME in February, and the authority to hire 5,500 new personnel to meet both its new homeland security needs as well as carry out its other traditional missions.

This bill also includes numerous measures which will improve the Coast Guard's ability to recruit, reward, and retain high-quality personnel. It addresses various Coast Guard personnel management and quality of life issues such as promotions, retention, housing authorities, and education.

Last year alone, the Coast Guard responded to over 40,000 calls for assistance, assisted \$1.4 billion in property, and saved 3,355 lives. These brave men and women risk their lives to defend our borders from drugs, illegal immigrants, and other national security threats. In 2001, the Coast Guard seized a record 132,920 pounds of cocaine and 50,000 pounds of marijuana, preventing these substances from reaching our streets and playgrounds. They also stopped 4,210 illegal migrants from reaching our shores. They conducted patrols to protect our vital fisheries stocks and they responded to over 11,000 pollution incidents.

And in the wake of September 11, the men and women of the Coast Guard have been working harder than ever in the service's largest peacetime port security operation since World War II. These operations are all critical to defending our country, protecting our borders, preserving our environment, saving lives, and ensuring commerce moves safely through our waters.

As a conferee on this bill, I am proud of the work we have done, and that we are sending a strong and meaningful port security bill to the President. We know full well that the world has changed, and seaport security cannot be taken for granted. We also know that our transportation system must be secure if we are to move the Nation forward, and also ensure that we are in a position of strength to be able to wage the kind of war necessary to eradicate terrorism.

So I urge all my colleagues to offer a strong show up support for this important legislation.

Mr. WYDEN. Mr. President, I rise to express my strong support for the im-

portant agreement that my fellow conferees and I achieved in the conference on the Port and Maritime Security bill. For many months, our staffs have worked tirelessly to help us reach an agreement that meets the needs of security while allowing commerce to flourish. This bipartisan legislation strikes a good balance between security and trade, and I'm glad to see that it will be headed for the President's desk.

This legislation, of which I am an original cosponsor, aims to protect U.S. ports against terrorist attacks. The safer Oregon's ports are, the more prosperous they will be. I am also pleased to see that many programs important to Oregon will continue to thrive. These programs play a critical role in supporting Oregon's commerce and ports, which support 1 in 7 jobs in the State. The Maritime Fire Safety Association on the Lower Columbia will continue its important work along with the important Coast Guard stations that maintain safety and manage fisheries for communities on the Columbia River and along Oregon's coast.

In addition to safeguards for Oregon businesses, I am also pleased that the agreement recognizes the important environmental laws that help maintain our State's environmental treasures and will continue to protect Oregon's ocean and coastal environment.

I especially want to commend Chairman HOLLINGS for his perseverance on this legislation, and I thank my fellow conferees for their hard work on this important bill.

Mr. BIDEN. Mr. President, today, the Senate will consider and approve a final agreement on maritime and seaport security. This important legislation will address critical security issues at America's seaports, and I rise to applaud the efforts of Chairman HOLLINGS and my other colleagues who served on the conference committee that brokered this historic agreement.

Conference negotiations always involve a delicate dance of give-and-take. In this case, the conferees have been true to the intent and spirit of the originally passed legislation. They have retained important improvements, including a requirement that ports develop terrorism response plans; the creation of a coordinated maritime intelligence system; and a mandate that the U.S. Department of Transportation conduct background checks of port workers and require worker identification cards. As important, the agreement reflects some of the priorities I advanced in my own port security legislation—including enhanced requirements for the electronic submission of cargo information and the development of a uniform system for securing containers destined for the United States. This legislation, while not a cure-all, constitutes a substantial improvement over the current security situation at many of our Nation's ports, and I proudly cast my vote in favor of it.

That said, passage of this legislation should not lessen our resolve to remain vigilant in our efforts to protect America's seaports. Each year, an estimated 11 million containers worldwide are loaded and unloaded at least 10 times. The U.S. marine transportation system alone moves more than 2 billion tons of domestic and international freight and imports 3.3 billion tons of oil. Surprisingly, notwithstanding the magnitude of cargo transported by sea, there exists no uniform or mandatory standards for security at leading facilities, no uniform or mandatory system of sealing containers, and no independent checks to ensure that basic safeguards are undertaken.

In order to remedy these gaps in our current security scheme, there remains much work to be done. As I have suggested, we should recalibrate our transportation agenda to focus more squarely on threats to sea and land. We should adopt stiffer criminal penalties, including enhanced penalties for noncompliance with certain reporting requirements; continue to explore policies and technologies that will ensure container security—shockingly, as an independent task force recently observed, most containers are now sealed with a 50-cent lead tag—make sure that border agents are trained and equipped to detect threats like nuclear devices, which would easily be concealed in the mass of uninspected cargo that enters the United States each day; work in partnership with the trade community to ensure appropriate data security; and provide for proper data collection and reporting systems that capture the magnitude of serious crime at seaports and related facilities.

Let there be no doubt about it: this legislation provides no reprieve from our obligation to safeguard the homeland. The task will be difficult and requires dogged perseverance, but the building blocks are before us. Moreover, we know what we must do: first, we must have solid intelligence to identify and track our enemies; second, we must erect the proper barriers and preventive strategies to keep weapons and other instruments of destruction out of their hands; third, if those strategies fail, we must be prepared and able to stop any threat before it arrives on our shores; and fourth, as a fail-stop measure, we must have the capacity to detect and destroy any threat that makes its way to our borders. No matter what your political stripe or special interest, those basic principles must guide our fundamental strategy. And this legislation moves us substantially in that direction. I am committed to continuing to work aggressively on these issues in the 108th Congress and invite my colleagues on both sides of the aisle to join me.

Mr. NELSON of Florida. Mr. President, I rise in support of the Maritime Transportation Security Act of 2002. Of all of the important legislation we have worked on this year to protect our Nation from further acts of ter-

rorism, I consider this bill to be one of utmost importance.

Most terrorist attacks around the world target transportation, and the Nation's 361 seaports, 14 of which are in Florida, are especially vulnerable. Our seaports are open and exposed to acts of terrorism as well as to drug trafficking, cargo theft, and especially important to Florida, the smuggling of illegal immigrants. The fact that many of our ports are located in and around large urban areas makes the security of the seaports of paramount importance. The extreme vulnerability of the urban areas in and around seaports was underscored recently by the fishing boat that eluded Coast Guard interdiction and arrived just off the shores of Key Biscayne, FL, carrying a large number of Haitian immigrants. Had this boat carried terrorists or dangerous cargo, a tragedy might have occurred.

A terrorist attack at our seaports would produce devastating effects both in terms of loss of life and in economic disruption. Florida's seaports play a critical role in our national, State, and local economies. Florida's seaports are major gateways of commerce for the flow of goods and passengers along the Nation's and Florida's transportation corridors of commerce. Florida ranks fourth in the Nation's total container movements, and is home to four of the major container ports in the country.

Florida has the top three busiest cruise ports in the world. Approximately twelve million passengers embarked or disembarked at Florida seaports during 2001 and approximately 80 percent of those passengers were U.S. citizens. The security of the Nation's seaports is crucial to the future of the cruise tourism industry.

Although Florida has the largest international water border in the continental U.S., and thus the largest Federal maritime domain of any State in the continental U.S., Florida's seaports receive very limited Federal law enforcement resources, and no Federal funding for security infrastructure to provide the security controls necessary to protect themselves from threats of large-scale terrorism, cargo theft, drug trafficking, and the smuggling of contraband and aliens. The increased threat of terrorism at our borders demands that action be taken immediately.

This legislation lays out important security measures that must be taken to ensure the safety and security of our seaports. It significantly increases funding for the Coast Guard to \$6 billion in fiscal year 2003. It also authorizes \$90 million in research and development grants to improve our ability to screen cargo for dangerous contraband, to detect unauthorized people or goods from entering through seaports, and to secure access to sensitive areas of our ports. This bill also mandates the development of standards for training Federal, State, and private security professionals and provides funding to

carry out that training and education. It also mandates for the first time, the development by ports, facilities, and vessels, of comprehensive security and incident response plans.

Unfortunately, the final version of this legislation does not include a dedicated funding source necessary to carry out the needed security measures. The grant program it establishes will help fund some of the security enhancements, but there must be more funding allocated to individual seaports. Florida has already spent more than \$7 million securing our 14 deep-water seaports. Florida needs more Federal funding to comply with the mandated security measures of this bill. We must also ensure that ports that have already spent substantial amounts of funding on security measures are reimbursed for those improvements. Without a dedicated funding source, it is hard to see how we will achieve the high level of security at our seaports envisioned by this bill.

No one deserves more credit for the passage of this important legislation than my good friend and colleague Senator BOB GRAHAM. It is an important step forward to securing our seaports and making our nation safer. But, as Senator BOB GRAHAM has said, we have much more to do. I look forward to working with him and my colleagues on the Commerce Committee to take the next steps in making our seaports safe.

Mr. MCCAIN. How much time remains on both sides?

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from South Carolina controls 17 minutes; the Senator from Arizona, 11½.

Mr. MCCAIN. Mr. President, I am glad to yield some of my time to the Senator from South Carolina, if he needs it.

Mr. HOLLINGS. I appreciate it.

Let me thank the distinguished Senator from New York. He is right as rain. We did not get adequate funds. That was a struggle over on the House side. That was the Gordian knot broken by our distinguished minority leader, Senator TRENT LOTT. But we are going to have to find not only the money for the research, we will have to find about \$4 billion at least to implement this measure.

I thank the Senator from New York. I particularly thank the Senator and chairman of our subcommittee, Senator BREAU. We had those six field hearings. We had the Director of Customs there. We had the Commandant of the Coast Guard. They were very comprehensive hearings with limited time. I can tell you now, we saw at one particular port a Ford pickup truck back out of that container, and another container that we happened upon had a bunch of mahogany desks from Mexico that we didn't see at the particular time. But later on up in Delaware, the Philadelphia area, it was opened up. It was all full of cocaine. So we made a good raid at one of those hearings.

Otherwise, the chairman on the House side, Mr. DON YOUNG, and his ranking member, JIM OBERSTAR, worked around the clock. They had to feel like we had over on the Senate side to take care of this with the user fee. But we just couldn't get the support on the House side. We are only here on account of the leadership of Chairman YOUNG and Congressman OBERSTAR. We had Senator TED STEVENS reconciling a good bit of the differences from time to time. And in the financial area, we had Senator BOB GRAHAM and Chairman CHUCK GRASSLEY of the Finance Committee who worked with us.

I think we ought to understand that this, for the first time, requires a national maritime security plan. As part of the plan, each regional area would be required to have a security plan. It requires for the first time ever that all waterfront facilities and vessels have a security plan that would have to be reviewed and approved by the Coast Guard. It requires for the first time ever that the Government will do assessments of security at our ports, and these reports would be the basis for port security planners. The security requirements will be implemented instantly after review by the Coast Guard, and the act would be fully implemented within 1 year.

We have background checks on all of the employees. We have the development of technology for seaport security, the maritime intelligence system; that requires tracking of vessels through satellite legal authority over territorial waters, advanced reporting requirements for vessels and cargo. And one final word: We did work with the unions in this particular measure. The White House, the unions, the Republicans, the Democrats, the House, the Senate worked out those background checks on union employees. So when we got together and much has been said that on the homeland security bill that was the holdup—we worked out a very comprehensive system that was approved by all and will give security to our port facilities.

I thank the distinguished Senator from Arizona for his courtesy in yielding and his leadership on this particular measure.

The PRESIDING OFFICER. The Senator from Arizona controls the remainder of the time.

Mr. MCCAIN. Mr. President, I want to go back for a moment to the discussion I had with the Senator from Delaware concerning rail security.

First of all, I agree with the Senator from Delaware. We need absolutely to pass that legislation, particularly now that we have acted on airport and port security. Rail security is obviously a very critical item. My point was that there are two bills: One is S. 1550, the rail security bill, which provides \$1.7 billion, \$515 million for Amtrak systemwide security, and then \$998 million for tunnel life safety projects in New York, Baltimore, and Washington, DC, which comes up to \$998 million, and

\$254 million for safety and security improvements.

That bill I supported and worked through the committee and would support it, even though over 50 percent of it goes for just three areas: New York, Baltimore, and Washington, DC. But that is where tunnels that need work are located.

I was referring also to S. 1991, which is the Amtrak reauthorization, which calls for \$4 billion annually and also includes the provisions of S. 1550. Holds were put on S. 1550. I do not support S. 1991 because it authorizes as much as \$4 billion annually.

The Senator from Delaware always talks about the fact that we subsidize aviation projects. We do. We do primarily through user fees. There are no user fees that are imposed on the railroads of America and Amtrak.

I am pleased with some of the actions that have been taken by the new regime over at Amtrak. The new chairman is doing a much better job in making some very tough decisions.

I look forward to working with the Senators from Delaware. The junior Senator from Delaware, Mr. CARPER, has been very committed and involved in the project. I look forward to working with him and Senator HOLLINGS. A top priority will be, in my view, rail security; we should pass it.

I want to make it clear I don't believe other extraneous projects should be associated with it. The Amtrak reauthorization should be taken up on its merits or demerits. But I hope we can move forward with S. 1550, the rail security bill. Holds have been put on the bill. It has received my support, as well as that of the distinguished chairman of the committee.

The issue of Amtrak rail security is of prime importance. The issue of the future of Amtrak is also of significant importance—not as important as that of rail security. I look forward to working with Senator HOLLINGS and the Senators from Delaware and the members of the committee, including Senator BREAUX, as we try to work through this whole issue of the future of Amtrak. There are a number of different kinds of proposals, and Mr. Ken Mead of GAO, under whose responsibilities Amtrak lies, is one to whom all of us pay a great deal of attention.

Finally, I again thank Senator HOLLINGS for his leadership on this very important legislation. I don't think there is any doubt in the minds of most safety and security experts that port security is an area of significant vulnerability. We hold no illusions there will be immediate confidence that we can have security in the airports of America, but I am confident that the implementation of this legislation, over time, will provide Americans, to a large extent, with the security and safety that is necessary in the ports of America.

In some ways, you can argue that the way the ports operate in America, the challenges are even greater than at the

airports, or even rail security, given the hundreds of thousands of containers that come through these ports on a daily basis, and how vital they are to the economy of the United States, as we found out in the slowdown/strike in the west coast ports recently.

So I again thank all involved. I also thank our friends in the other body, the House, and also for the involvement of the administration.

Mr. President, I yield whatever remaining time I have to the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Arizona. I am glad to hear him say we are going to work together on port security and the reauthorization of Amtrak because that is vital. I think if the leader here, the Senator from Nevada, and the other side are ready, we can yield back time and proceed to the vote. I yield back any time I may have. I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from South Carolina yielded back their time. I think it is appropriate to start the vote a couple minutes early.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—95

Akaka	Crapo	Kerry
Allard	Daschle	Kohl
Allen	Dayton	Kyl
Barkley	DeWine	Leahy
Baucus	Dodd	Levin
Bayh	Domenici	Lieberman
Bennett	Dorgan	Lincoln
Biden	Durbin	Lott
Bingaman	Edwards	Lugar
Bond	Ensign	McCain
Boxer	Enzi	McConnell
Breaux	Feingold	Mikulski
Brownback	Feinstein	Miller
Bunning	Fitzgerald	Murkowski
Burns	Frist	Murray
Byrd	Graham	Nelson (FL)
Campbell	Gramm	Nelson (NE)
Cantwell	Grassley	Nickles
Carnahan	Gregg	Reed
Carper	Hagel	Reid
Chafee	Harkin	Roberts
Cleland	Hatch	Rockefeller
Clinton	Hollings	Santorum
Cochran	Hutchinson	Sarbanes
Collins	Hutchison	Schumer
Conrad	Inhofe	Sessions
Corzine	Jeffords	Shelby
Craig	Johnson	Smith (NH)

Smith (OR)	Stevens	Voinovich
Snowe	Thomas	Warner
Specter	Thompson	Wyden
Stabenow	Thurmond	

NOT VOTING—5

Helms	Kennedy	Torricelli
Inouye	Landrieu	

The conference report was agreed to.
Mr. HOLLINGS. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

CHARITY AID RECOVERY AND EMPOWERMENT ACT OF 2002

Mr. SANTORUM. I thank the Presiding Officer. I appreciate the opportunity to speak. I am prepared to offer a unanimous consent on the CARE Act, which is the act that passed out of the Finance Committee 147 days ago. It is the Charity Aid Recovery and Empowerment Act of 2002. I will let the Members know what the legislation does, and then I will ask unanimous consent to consider the legislation before we leave.

This legislation came out of the Finance Committee with 28 bipartisan co-sponsors. More than 1,600 small and large charitable organizations support this act because it promotes giving, it promotes savings for low-income individuals, and makes the Tax Code more fair, particularly for the low-income and moderate-income individuals who do not fill out the long form on their tax return.

It provides 86 million Americans the opportunity to itemize charitable organizations, which now they cannot do because they do not fill out the long form. It allows 300,000 low-income individuals the opportunity to build assets through something that Senator LIEBERMAN and Senator FEINSTEIN and others on both sides of the aisle have promoted—individual development accounts. It will provide incentives for \$1 billion in food donations from farmers, restaurants, and corporations. It will provide \$150 million in a compassionate capital fund to provide money for smaller charities.

A lot of charities do not participate in government funding programs because they do not have the technical expertise to do so. We are providing money for technical assistance to some of the community grassroots organizations, faith-based organizations, and non-faith-based organizations to participate in providing social services in a very effective and compassionate way.

This is the way to do it. It adds something Senator LIEBERMAN was a great advocate of, \$1.2 billion in new social service block grant funds to provide social services to those in need in our society. It allows people to give tax-free contributions from their individual retirement accounts. Again, right now if

someone wants to give to a charitable organization, and you want to give it out of your IRA, you have to pay taxes and penalties. This allows for a distribution from people who have money in their IRA's who have a desire to give to charitable organizations. We will allow them to do that, liberating hundreds of millions and billions of dollars to faith-based organizations.

This is legislation designed in response to 9/11 and the recession we have been going through to try to target resources to these small, charitable organizations; to try to get moderate- or low-income individuals the opportunity to deduct the charitable contributions. One of the ways it is paid for is through corporate inversion. I argue we are nailing corporations that are moving their operations out of the United States and avoiding taxes. We are taking money that could be raised by these corporate inversion provisions and channeling it to those most in need in our society.

That is what the legislation does. There is one other provision I make clear. There is equal treatment language in this legislation. Let me state what that does. It is noncontroversial, equal treatment language. It says organizations that receive government funds can display a religious icon, that they can have a religious name. Believe it or not, I have been to many organizations, particularly in the Jewish community, and because they have a Hebrew name, they are automatically left off the list of organizations that can participate in government funds, even though they are not Jewish in nature. They may be Jewish, but they are not in any way affiliated with the Jewish faith. They just happen to be culturally a Jewish organization.

Having a religious name like St. John's should not eliminate you from participating in government funds, if you are not religious in nature, or do something unique for a religious purpose. You can have religious language in your chartering documents, you can quote the Bible in your chartering documents, and it should not eliminate you from Federal funds. Again, these are not controversial. You can use on your governing boards, nonprofits, not paid governing boards some sort of religious criteria as to who serves. So if you are the Mormon Church and have a governing board on your social service agencies, you can require they be Mormons. I don't know that necessarily discriminates against anybody in the sense these are not paid positions. They are church-affiliated. We are not discriminating in the hiring. We are talking about oversight of charitable organizations.

These are the provisions of this act. I believe if you look just at the four walls of this bill, there is not a lot of controversy in this legislation. What we have attempted to do, Senator LIEBERMAN and myself—we have been working this legislation now for almost 150 days. Obviously this is legislation

the President strongly supports. He believes we need to get this money out into communities to try to help those in need in our society.

We have been working with Senator DASCHLE. I thank Senator DASCHLE and Senator REID for their good-faith effort to try to move this legislation forward. As many here in the Chamber know, Senator DASCHLE said publicly over and over, over the past couple of years, he would give the President a vote on this initiative, which is just a piece of the President's faith-based initiative. He has worked diligently to try to make that happen.

We have been hotlining a unanimous consent agreement. The unanimous consent agreement would allow for four Democrat amendments on the substance of the legislation, attacking the substance of the legislation, and one Republican amendment.

I want to repeat we are allowing the Democrat side four amendments and we have accepted it on our side. We hotlined it this week. There is no objection on our side of the aisle to giving four times as many amendments to the Democrats as we have on this side.

I am hopeful that, given the importance of this legislation, given the fact this is going to help those in need at a time of economic distress and uncertainty, we can liberate literally billions of dollars to be targeted to organizations that want to help those in need in our society.

I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader—however, no later than the close of business of the Senate—the Senate proceed to the consideration of Calendar No. 496, H.R. 7, and it be considered under the following limitations: That there be 1 hour for general debate on the bill equally divided between the two managers, the only amendments in order, other than the managers' substitute, be the following: An amendment prohibiting proselytization using public funds, an amendment prohibiting discrimination using public funds, an amendment prohibiting direct funding of religion, an amendment preserving State and local government options—these amendments were provided to us by Senator DASCHLE, I believe to be offered by Senator REID—and a Republican amendment, to be offered by Senator GRAMM, is an amendment expanding benefits of land conservation provisions to all charities; the amendments be limited to 60 minutes each, to be divided between the proponents and opponents, with no second degrees in order. I ask following the disposition of the amendments and expiration of debate, the bill will be read a third time, and the Senate proceed to a vote on passage of the bill with no further intervening action or debate.

Several Senators addressed the Chair.

Mr. LIEBERMAN. Mr. President, reserving the right to object, and I will

not object, I support the request of the Senator from Pennsylvania for unanimous consent. I have been his cosponsor and coworker in this cause for many a year now. This is part of an attempt to find a constitutionally appropriate way to engage. The initial attempt was to engage faith-based groups in making this a better society, using the particular skills they have, and sense of mission that faith-based groups have, to help us deal with some of society's social problems.

Of course, there are thousands of faith-based groups that are doing that today with regard to fundamental human needs such as hunger and homelessness, and going beyond that, to violence, family dysfunction, drug abuse, substance abuse, and a host of other problems. This was an attempt to see if we could find a constitutionally appropriate way to have the Government help these groups do that.

Along the way many concerns were raised. The bill was passed in the House, so-called charitable choice, building, in fact, on a charitable choice provision that was in the welfare reform bill of 1996 and signed by President Clinton. A similar provision was adopted in three other social service programs, but when it came to introducing this legislation last year—which President Bush had coordinated and initiated—there was some opposition and controversy around it.

I must say here, and perhaps it is timely and appropriate to say it, as the pending legislation before the Senate is the homeland security legislation, where this Senator has said several times I have felt the administration, on a particular point, has been inflexible or—in any case, in this measure, with regard to faith-based institutions, the administration has in fact been quite flexible. We have now come together on a proposal that is not really any longer strictly a faith-based initiative. It is a charity initiative. We have eliminated all of the controversial sections that were in the House-passed legislation, passed earlier in the 107th session. We have it honed down now to very significant tax incentives for charitable giving, for people to give to charities, faith-based and otherwise, at a time when those charities' income is falling because of the economy and other demands. Yet the needs, if anything, as the economy is stagnating, are even greater.

As to the \$1.2 billion to social services block grants, if there was nothing else in this bill, I would say it was worth it because these are critically important, humane programs that are carried out. Again, they don't just go to faith-based groups. They go to all—they go mostly to nonfaith-based groups. And then technical assistance for charities to be able to qualify for public assistance, the Individual Development Accounts, which were a wonderful way—experimented with in several places around the country—to help poor people build savings that are

matched by financial institutions, to get some wealth and work their way up into the middle class.

I know there remain some concerns about the bill. But they are not about the language of the bill, which I believe is noncontroversial at this point. They are about trying, around this bill, to change some language that is in the statute now—particular language in title VII of the Civil Rights Act that allows faith-based groups to hire people only of the faith of the group. That is an issue on which we can all agree or disagree. But I plead with my colleagues, it is an issue for another day.

The fact is, under the unanimous consent proposal that the Senator from Pennsylvania has made, our colleagues who are concerned about that issue, though it is not specifically within the parameters of this proposal, will have the opportunity to introduce amendments to alter it.

I think this is a very reasonable proposal which is all good and will help charitable groups of all kinds help us make this a better country. Therefore, I appeal to my colleagues to allow this unanimous consent to be adopted so that, before we leave, we can in a sense give a gift, as we approach the holiday season, to those who are most in need in our society and particularly directly to those charitable groups where the focus is on helping those most in need.

I hope we can agree on this unanimous consent proposal.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my problem with this unanimous consent request relates to the limitation on amendments. There have been four amendments specified. I have been trying for weeks and months, in some cases years, and other Members of this body have also been attempting to get other amendments that relate to the Finance Committee's work before this body for a vote.

The Senator from Connecticut talks about the needy. Clearly, he is right. There are needy people in this country. One of the neediest groups is the people who have exhausted their unemployment benefits. We have been trying for months to get an extension of unemployment compensation before this body for a vote. In prior recessions, there have been extensions of unemployment of 29 weeks in 1974, 26 weeks in 1981, 33 weeks in 1990, and 26 weeks in 2002. We need an extension of unemployment benefits. We have a large number of people—900,000 workers—who have exhausted all of their additional weeks of Federal unemployment insurance between May and July of 2002. This number is going to grow to 2.2 million before the end of the year. We have lost 2 million private sector jobs in this country since January of

2001—an actual decline in private sector jobs for the first time in 50 years.

We have economic problems. We have suffering. We want to extend unemployment benefits. Yet I am precluded—as have our other colleagues who have been working diligently on this issue—from offering an amendment to this bill to extend unemployment benefits. It is that limitation, that restriction, that prohibition in the unanimous consent proposal that I have a problem with. I think it is important that those who are fighting for an extension of unemployment compensation have this opportunity on this bill because this is a bill which can pass and offer immediate and critical help to our people.

That is the problem I have with the unanimous consent request.

In addition to the extension of unemployment benefits, I ask if the author of this unanimous consent request would consider modifying his request to allow three amendments I have been trying to get considered by this body. One is the extension of unemployment compensation which many people have been attempting for months to have considered by this body. I would like to see that locked in and guaranteed for consideration on this bill. This bill can pass. No. 1.

No. 2, an amendment relevant to stock options which was blocked. Senator McCain was blocked from offering it a number of months ago. The amendment would simply require the Financial Accounting Standards Board to consider the issue of stock options within a year and report back.

The third is the Securities and Exchange Commission administrative enforcement amendment.

We circulated those amendments. They are clearly within the jurisdiction of this committee. The only way we are going to get these amendments considered is if they are part of a unanimous consent request such as this.

I ask the Senator from Pennsylvania whether he would consider amending his unanimous consent request to allow three additional amendments. That is the only problem I have with his unanimous consent request—it precludes amendments from being offered which are within the jurisdiction of this committee, which are critically important to this country, and which won't be considered unless we can make them part of a unanimous consent request.

That is my question to the sponsor of the unanimous consent.

Mr. SANTORUM. Mr. President, let me address the three amendments.

With respect to the first amendment, I agree with the Senator from Michigan. That is something we should do. Even though I believe it is not germane to the package we have before us, it is certainly within—from the standpoint of what this bill is trying to do, which is help with the financial and economic stress—it certainly meets the overall goal of the legislation.

My understanding is that there is a very good chance the House is going to

pass an extension today and send that over. In fact, I feel very confident about that. They are going to pass an extension and send it over, which I hope we will be able to act upon and pass.

I would say to the Senator from Michigan with respect to this piece of legislation that I think you will have an opportunity to deal with that issue on the bill that certainly will have just as much chance of passing as this bill.

Mr. LEVIN. Will the Senator yield on that point? Is it the Senator's understanding that that extension is simply an extension or part of a larger package which has many other features to it?

Mr. SANTORUM. I do not know if anybody else has a better understanding than I do. If they do, feel free to chime in.

My understanding is they are going to pass a clean extension.

Mr. SARBANES. Mr. President, will the Senator from Michigan yield on that question?

Mr. LEVIN. Yes.

Mr. SARBANES. It is my understanding that the unemployment extension benefits that the House is considering, first of all, are embraced within the package that encompasses other things as well.

Second, and more importantly perhaps, the unemployment insurance benefits issue itself is very limited and falls far short of the sort of amendment the Senator from Michigan is considering in terms of extending these unemployment insurance benefits, which is a growing crisis in the country. We need to recognize that. I certainly support the Senator from Michigan in his effort to ensure the unemployment benefits. But what the House is considering, as I understand it, is grossly inadequate in terms of addressing the unemployment insurance. It doesn't even carry forward a full extension of the current situation beyond that. There are going to be people falling off the cliff here very shortly. Many of them have already fallen off the cliff.

Mr. SANTORUM. Mr. President, the Senator is making the point that he doesn't have another vehicle for an opportunity to offer his amendment. My point is, when this bill comes over, he will have an opportunity to offer an amendment on unemployment extension, and he does not need to use this vehicle. That is the point.

Mr. LEVIN. Is my understanding correct that an unemployment benefit extension is part of a larger package which has many controversial issues in it? If so, then that bill may not go anywhere because of the other parts of it—not because of the unemployment extension, which purportedly everyone favors around here but then wants it to be used to produce other achievements and successes that are highly controversial.

This is not a controversial amendment. This extension we are talking about is not a particularly controver-

sial amendment. The Senator from Pennsylvania favors it. And yet, when I am asking whether he favors an extension—

Mr. SANTORUM. I haven't seen the amendment. I do not know.

Mr. LEVIN. I withdraw that—favors an extension of unemployment compensation, we may be able to sit down and work out something that the Senator from Pennsylvania does favor in the area of unemployment compensation extension and include that in his unanimous consent.

But it seems to me it is absolutely reasonable to ask for a more certain way of getting an unemployment benefit extension passed through this Congress. It is critically important to hundreds of thousands of people who are suffering. It is immediate. It is urgent.

I therefore renew my request that those three amendments be added to the unanimous consent request of the Senator.

Mr. SANTORUM. Mr. President, I would certainly be willing on the first amendment to sit down with the Senator to see if there is an unemployment extension that can be agreed to. I think it is something we need to do. I think there is a willingness on our side to have an unemployment extension. I would have no objection to setting aside the unanimous consent request to try to work out a unanimous agreement on the issue of unemployment compensation.

There are other issues which are really outside the scope of this, and they are very controversial. I understand the Senator—I know because I have been on the floor many times—from Michigan has attempted to get the initiative aired. I understand his passion on it. I respect how he feels about it. But I think the Senator from Michigan would agree with me that these are hotly contested. In fact, one of the co-sponsors of this legislation on the other side of that issue is the Senator from Michigan. I think adding those two amendments that really aren't germane for helping those in need in our society are outside of the scope, and in fact the amendments would sink the entire bill if they were adopted.

I can try to meet the Senator halfway. Let us try to work together on unemployment. If we can do that, and if the Senator is willing to set aside the other two amendments, then we can try to move forward with the consent request. I would be happy to work with him.

Mr. LEVIN. Mr. President, let me ask the Senator from Pennsylvania about the third amendment to which I referred, which wasn't particularly controversial but yet precluded when we considered the Sarbanes bill, which has to do with administrative enforcement by the SEC of their regulations.

The only area that the SEC cannot now administratively enforce with civil fines is the area of regulations involving corporate executives and auditors. When it comes to the stock-

brokers, they are able to enforce administratively their regulations with the use of civil fines, of course subject to the appeals courts. But the area which has been so crucial and so sensitive—violations of regulations which have contributed so much to the suffering in the economy, violations by corporate executives and by auditors—in that area, the SEC does not have the authority to proceed administratively. They want it. I do not know of folks who oppose it. But unless we can act on it this year, there will be another delay.

I ask the Senator from Pennsylvania whether or not his offer to go halfway would include the second of the three amendments relative to the SEC administrative enforcement.

Mr. SANTORUM. My understanding is that third amendment is not a tax-related amendment and would be appropriate to be offered, for example, if you wanted to, on the homeland security bill or another piece of legislation that is coming through. So there isn't a need to have that amendment attached particularly to a tax vehicle.

I understand your second amendment has tax implications and is necessary to offer to a tax bill. But this amendment you could offer, if you wanted to, once we leave this unanimous consent, to homeland security. It probably has a much better chance of being passed and signed by the President in this legislation.

So I would say to the Senator, if he wants to do that, I would argue that the better opportunity for him to do it is on homeland security, not this tax bill.

Mr. LEVIN. Will the Senator yield on that?

Actually, both the amendments have tax revenue implications. Stock options have been, in my judgment, excessively used in an inconsistent way, where a tax deduction is given to a stock option which is not shown as an expense on the books but is taken as an expense on the tax return. So there are very significant tax issues on the stock option issue.

Also, on the auditors and executive issue, there are tax revenue implications because in both cases we have lost significant amounts. Because of violation of regulations by auditors and by executives, we have lost tax revenue.

Mr. SANTORUM. Mr. President, I say to the Senator from Michigan, the third amendment, from my reading of it, is an amendment that is under the jurisdiction of the Banking Committee and not under the jurisdiction of the Finance Committee and not a tax-related amendment. There may be revenue implications, but there are lots of revenue implications of things we do here that are in the jurisdiction of other committees having to do with enforcement. But there is no tax implication. Therefore, there is no need to offer it here in this tax legislation. The second one certainly does.

Mr. LEVIN. On the stock option, there has even been a hearing in the Finance Committee.

Mr. SANTORUM. I understand the third one, that you are arguing for now, is not necessarily appropriate for this legislation.

Mr. LEVIN. Happily, the Senator's argument against it on the third amendment helps me on the second amendment because it is clearly in the jurisdiction—

Mr. SANTORUM. The second amendment is highly controversial and would be an amendment that would surely sink any possibility of this legislation being passed.

Mr. SARBANES. Would the Senator yield for a question about his second amendment on the stock option?

Mr. LEVIN. Yes.

Mr. NICKLES. Regular order.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Does the Senator from Pennsylvania yield?

Mr. SANTORUM. I yield.

Mr. SARBANES. It is my understanding that the amendment the Senator from Michigan is talking about on stock options does not have a substantive result contained in the amendment. It is simply a request that the Financial Accounting Standards Board study the issue and report back.

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. In that sense, it is neutral on the substance of the issue; is that correct?

Mr. LEVIN. That is correct. There is a requirement that they report back in a year. But the Senator is correct, on the substance of the issue, it is neutral.

I think the Senator from Pennsylvania might also find that some of the people who previously opposed the effort in the area of stock options may not object to having the Financial Accounting Standards Board review this matter and report back in a year, for the very reason that the Senator from Maryland raises, which is that it is substantively neutral.

Mr. DURBIN addressed the Chair.

Mr. NICKLES. Regular order.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Pennsylvania has the floor.

Is there objection?

Mr. DURBIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you very much.

I say to my colleague from Pennsylvania and my colleague from Connecticut, I understand the importance of this issue to each of you personally, and to those who are cosponsors, and why you are anxious to raise the flag and at least raise the issue in the closing days and hours of this session.

I find it interesting, in listening to the presentation here, that we have focused on the Finance Committee and tax implications, referrals from the Finance Committee, and their debate, and really have, unfortunately, not ad-

ressed what I consider to be the larger issue, an issue which should have been addressed by the Judiciary Committee, an issue which goes to constitutionality and the premise of the separation of church and state in the United States of America—something that many of us find fundamental to the American experience and to our American society.

I do not quarrel with the premise of the Senator from Pennsylvania. I could list, and he could, too, so many faith-based charities in his home State and my home State that have done wonderful work, and continue to do so. They receive Government assistance, and they should. I have supported them. I have found appropriations for them. I will continue to do that. I do not believe that is the issue here.

Frankly, if that were the referendum before us, it would receive a unanimous vote. We all concede charitable and faith-based organizations do exceptional work, and governmental assistance, under the right circumstances, can be of benefit to America as a society.

But the President's initiative that you have brought to the floor suggests the way we have done business in America for decades has to be changed substantially, dramatically. Those changes deserve an airing and full debate.

The Senator from Pennsylvania has been kind enough to acknowledge four amendments prepared by Senator JACK REED of Rhode Island as well as myself to bring to the floor. I would argue, perhaps, that 1 hour of debate for each of these amendments, considering the gravity and importance, is not nearly adequate.

But I also say this to my colleague from Pennsylvania. Is it not a fact that with the House minutes or hours away from adjournment, and the fact that no conference committee is likely to ever convene on this issue, there is little that can be accomplished in a substantive way on an issue of this importance?

Is it also not a fact that this issue is of such importance to us that we should take time to engage in a debate which, frankly, will give all sides an opportunity to express themselves, to make certain we do not—

Mr. NICKLES. Regular order.

The PRESIDING OFFICER. The Senator from Oklahoma has called for the regular order.

Mr. DURBIN. Let me say I reserve the right to object.

The PRESIDING OFFICER. The regular order is that a request has been made.

Mr. DURBIN. Well, then, I object.

The PRESIDING OFFICER. And a Senator, when the regular order is called for, must either object or the request will be granted.

Did the Senator from Illinois object?

Mr. DURBIN. I was trying to keep the floor open for those who wanted to express themselves on this issue. If I

am forced to object, I will, but I have other colleagues here who would like to share some concerns with the Senator from Pennsylvania. And as I understood, there was a dialogue between us, or at least I hoped there would be. That was the reason I was asking questions of the Senator. And if it is necessary at this point to object, and it will foreclose my colleagues from making a statement, I did not want that to happen. But if that is where we stand on this, I suppose I have no alternative. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania continues to have the floor.

Mr. SANTORUM. Mr. President, I am very disappointed that there was an objection. I understand the Senator from Illinois and the Senator from Rhode Island have objections to this legislation. As the Senator from Connecticut said very clearly and very articulately in his statement, the objections they have are not with this legislation. They may be with current law, the 1996 Welfare Act and the three other provisions that were signed by President Clinton and passed by this Senate, two of which were passed unanimously, to my recollection.

The objections are to underlying law, not to this legislation. This legislation does not deal with any of the issues that are in the amendments the Senator from Illinois has offered.

The Senator mentioned that an hour's debate is not enough. I am willing to spend as long—2 hours, 3 hours per amendment. I offered an hour of debate as an accommodation to the leader, to the majority leader, in trying to find a reasonable amount of time to finish.

I agree with the Senator from Illinois, this is a very important piece of legislation. But if the problem is that we need more time for debate, I certainly would, and I know the Senator from Connecticut would, be perfectly willing to come here.

I think these are important issues, but I would argue they are not issues about this legislation. They are not issues in your amendments having to do with proselytization using public funds. There is nothing in this legislation that permits that—nothing. Nothing even addresses it or comes close to it. These are tax provisions that allow—

Mr. REED. Will the Senator yield?

Mrs. CLINTON. Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Pennsylvania does have the floor.

Mr. SANTORUM. Thank you, Mr. President. I will yield to the Senator from Rhode Island for a question.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. The Senator from Pennsylvania points out that the legislation is silent on the critical issues, but the

silence is not correct. There are potential constitutional flaws that are inherent in the legislation. As I understand it, part of the legislation is to authorize directly funding religious institutions to provide social services.

Mr. SANTORUM. Reclaiming my time, I will read to you the provisions of this legislation on what the money is expended for. No. 1, it talks about \$2.6 billion of this legislation is a nonitemized or charitable deduction. It is not for religious organizations. It allows people who fill out the short form to deduct charitable contributions.

No. 2, IRA charitable rollovers. What it says is people who have an IRA can roll over that IRA into a charitable organization, qualified under 501(c)(3) or other, whatever organizations would be eligible, and that is \$2.9 billion over the next 10 years—again, nothing to do with faith-based organizations; no direct government dollars to anybody.

Third has to do with enhancing charitable deductions for farmers, restaurateurs, and businesses for food donations. Again, it has nothing to do with charitable choice, nothing to do with any kind of government funds going to charitable organizations.

Fourth, we have enhanced charitable deductions for book donations—again, nothing to do with charitable choice. Incentives for S corporations to give more money to charities—again, nothing to do with faith-based organizations. We have an IDA amendment, which is something the Senator from Connecticut and the Senator from California, Mrs. FEINSTEIN, have championed, and I have worked on our side to allow low-income individuals to have matched savings accounts for purposes of buying a home, going to school, or starting a small business—again, nothing to do with charitable, faith-based organizations.

Also, we have the social services block grant fund which I know is wildly popular on the Democratic side of the aisle. That is \$1.37 billion over the next 2 years.

So if you look at all of these provisions, I understand the Senator from Rhode Island and the Senator from Illinois have serious concerns about the existing charitable choice provisions in law. I accept that. I understand that. I understand the Senators from Rhode Island and from Illinois have problems with the bill the House passed because it did have an expansion of that in the House-passed bill. But the Senator from Connecticut has been very tough at negotiating with the White House and with the Senator from Pennsylvania in leaving every controversial element that could touch on any kind of constitutional infirmity out of this legislation.

You can argue that we don't fix the problem that may be in existing law, but there is nothing in this legislation that even comes close to any of those provisions. You have as much argument, in my opinion, to offer the amendments that you have offered to

homeland security as you do to this bill because neither of them deal with the subject of your amendments.

I understand there is a problem. I understand there is a debate that needs to be had on these issues, but not on this bill because this bill doesn't do what many are suggesting it does.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield.

Mr. REID. I worked with the two leaders in arranging time that you could offer this unanimous consent request. The two managers are very anxious to get to homeland security. We have two cloture votes facing us. People wanted to offer amendments. I would ask that the Senator from Pennsylvania, as soon as he has completed his statement, yield the floor so we automatically, as I understand it, go back to homeland security. Is that right, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada is right. The Senate would resume consideration of the pending business which is the substitute on homeland security.

Mr. REID. I would say to the Senator from Pennsylvania, we anticipated this taking just a little bit of time. It has taken a large amount of time.

To all my friends who have problems with this legislation, as has been indicated, the homeland defense bill is open for debate and certainly amendment. Anyone who has anything they have not been able to complete saying now on this issue could complete their statements on H.R. 5005.

All I am saying is, I hope the Senator from Pennsylvania won't talk too much longer.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Mr. President, I want to say with all respect to the Senator from Nevada, the Senator from Pennsylvania has been trying to respond, actually giving the opportunity to other Members to express their concerns about this legislation. I did not call for regular order. I did not try to limit in any way those who have concerns about the legislation from having the opportunity to speak. I was using the time I had to give them the opportunity to express their concerns and then, to the extent I could, try to respond to their concerns.

I have no intention of trying to hold up the homeland security bill. I just wanted the opportunity, if we could, to have a discussion to see if we could reach some sort of accord to actually move what many of us believe is a very important piece of legislation. It does not look as if that is going to happen.

I am disappointed because I do not believe the issues that have been raised about infirmities of other pieces of statutory law are in any way impacted by this legislation. It is a tragedy that literally tens of billions of dollars that could go to low-income individuals, incentives for people to give, the oppor-

tunity to have matched savings accounts for low-income individuals to buy a home and to start a small business or to get an education, that is going to be forfeited on issues that have nothing to do with the underlying bill.

That is unfortunate. I am hopeful that now that we have had this discussion, Members will think more about it and hopefully come to a different conclusion as to whether to object to this legislation.

The PRESIDING OFFICER. The Senator from New York.

UNANIMOUS CONSENT REQUEST—
S. 3009

Mrs. CLINTON. Mr. President, I intend to offer a unanimous consent request that the Senate proceed to immediate consideration of the extension of unemployment insurance. As the dialog between the distinguished Senators from Pennsylvania and Michigan just illustrated, this is an issue that had bipartisan support—really, nonpartisan support.

There are 2.2 million workers who have exhausted or are about to exhaust their benefits without finding a job. Ignoring these people, especially as we are about to enter into the Thanksgiving-Christmas holiday season, will not make them go away. It is not going to help them automatically find a job because they have been out there diligently looking.

The fact is, we don't have enough jobs right now. All of us hope that is going to turn around. But if you look at the statistics available, there are 1.7 million workers who have been unemployed for longer than 6 months as of October. That is an increase of 70,000 over September and over 180,000 over August. One out of every five of these unemployed has been out of work for more than 6 months. That is a proportion larger than at any time in the previous 8 years.

I believe that extending these benefits now sends a message to those who lost their jobs through no fault of their own in States such as mine and that of Senator CANTWELL of Washington. The provision we are asking unanimous consent on would provide 13 more weeks of unemployment insurance for everyone who lost their job, were laid off, cannot find a job. The bill would not provide a single additional benefit, if you look at what the Republicans are proposing. So our bill is a much better one because the Republicans would permit those who are about to crash into the brick wall of December 31 no relief.

I believe it is imperative that we take action before we leave.

Mr. NICKLES. Will the Senator yield for a question?

Mrs. CLINTON. Certainly.

Mr. NICKLES. I wish to ask her a question before she asks unanimous consent. Just to clarify the record, to be correct, I believe she stated her proposal is a 13-week extension. Is her proposal S. 3009?

Mrs. CLINTON. Yes, it is.

Mr. NICKLES. Just to clarify, I believe that is not a 13-week extension; it is a 26-week extension.

Also, just for your information, the House may soon try to pass legislation that would eliminate this cliff as of December 31. So I want the Senator to know that efforts are being made by some in the House to pass legislation that would address the unemployment compensation issue, and extend welfare authorization, among other things.

I wanted to make sure you are aware that the bill you are trying to pass by unanimous consent, S. 3009, is not a 13-week extension, but it is a 26-week extension and costs \$17.1 billion. A simple 13-week extension costs less than half of that. I wanted to make those few facts known before I object to the Senator's request.

Mrs. CLINTON. I appreciate the Senator's factual intervention. It is the same proposal that was used in the early 1990s to extend unemployment insurance under the first President Bush. It is what has historically been done. Now, some people benefit more because of the circumstances in which they find themselves. Indeed, when we passed the only extension of unemployment insurance back in, I think, March, there were a couple of States that had been very hard hit that were given additional benefits.

As the Senator points out, what the House is about to send over is not just an unemployment insurance extension; it changes welfare law, it provides Medicare benefits to a certain category of Medicare recipients and not to others. So I think that it would be far better for us to ensure that an unemployment insurance benefit was going to be extended.

Ms. CANTWELL. Will the Senator yield?

Mrs. CLINTON. Yes.

Ms. CANTWELL. I am joining the Senator in support of bringing this up under a unanimous consent. The issue the House is looking at is simply another 5-week extension. So, yes, maybe more for the holidays people will think they have 5 more weeks. But the issue is that expansion of this unemployment program is about helping people through a tough economic time. We don't expect that it is going to get any better January 1 or January 31.

Frankly, I think if you listen to Alan Greenspan and everybody else in the administration, they don't expect it is going to get any better in the next 5 months. So the point is that we want to have a stimulus for those local economies.

My State of Washington, with nearly 80,000 people impacted, has been putting something into the economy. But starting December 31, they won't be because they won't be able to make mortgage payments or take care of health care or do a lot of things. So this is about making a statement and expanding the program beyond another 5-week Band-Aid. If we had a commitment

that we were going to be here on January 1 when the next 5 weeks runs out, and we were going to take a look at the next 6 months—but we are not doing that. We are saying we expect no economic improvement. We are not willing to step up, as the Bush 1 administration was willing to do in the 1990s, and say, yes, an extension of unemployment is a good stimulus, a safeguard, while the economy is needed to improve. That is what we are talking about here. So the Band-Aid approach that the House is sending over is simply 5 weeks, basically taking care of the worse case scenario. We need to make a positive statement. I have talked to many business people in my State who are supportive from that perspective of not taking out this income from the local economies that are being crunched.

I wanted to add to my colleague from New York, the numbers are staggering. New York has over 300,000 people who will be impacted as of December. Other States: Illinois with almost 170,000 people; Georgia, 125,000 people; Pennsylvania, 125,000 people; Texas, 215,000 people.

So there are States throughout this country that are feeling this impact. I think the previous Bush administration was very wise to say a good stimulus and a good support for unemployed workers who have lost jobs through no fault of their own, who cannot find employment, let's keep the basic income going and give a stimulus to the economy. I don't know that the Senator from New York is opposed to negotiating any kind of proposal that would get us past just a Band-Aid. I think we are willing to look at what the proposal is, but this is about the sixth or seventh unanimous consent request and negotiation proposal this side of the aisle has put forward.

We are saying that the time has run out and that these individuals are going to get very minimal—if next to nothing—good news about their economic opportunity for the next year or year and a half.

Mr. NICKLES. Will the Senator yield for a question?

Mrs. CLINTON. I yield to the Senator from Maryland.

Mr. SARBANES. I commend the Senator for offering this unanimous consent request. Secondly, in response to the points raised by the Senator from Oklahoma, as I understand it, the bill provides for an additional 13 weeks. If you have exhausted your benefits, having drawn the basic 26 weeks, and the additional 13 weeks that we have provided for in March of this year, you could then draw another 13 weeks. So for that limited group would, in fact, get 52 weeks. I point out that that limited group is unemployed. They have not been able to get a job in a labor market that is not working.

In fact, Chairman Greenspan, yesterday, testifying before the Joint Economic Committee, when asked about extending unemployment insurance

benefits, testified that the extended unemployment insurance provides a timely boost of disposable income. He acknowledged that we are currently in a period where jobs are falling. He stated:

I have always argued that in periods like this that the economic restraints on the unemployment insurance system almost surely ought to be eased.

That is exactly what this legislation seeks to do.

Secondly, there is \$27 billion in the trust fund to pay unemployment insurance benefits, specifically designed to meet this kind of situation. Those moneys have been paid into the trust fund over a period of time. The whole system was structured to have this trust fund build up in good times, and then to utilize it in bad times.

We certainly are facing bad times now. In fact, we have 2.2 million who have lost, or will lose, their unemployment benefits by the end of the year. The long-term unemployed—those more than 26 weeks—rose 71,000 last month alone. There are now more than 1.6 million long-term unemployed—a million more than when President Bush took office.

What the Senator is seeking to do was done, I must point out, under President Bush the first. For the life of me, I don't understand why President Bush the second won't agree to and support this measure.

What are these people to do who have lost their jobs? The premise of the system is you get some short-term support, the labor market picks up, and you can go back and find a job. They cannot find these jobs. In fact, not only can they not find them, more people are losing their jobs. So the labor market is constraining, not expanding. These people need help. There is \$27 billion that has been paid into the trust fund for the very purpose of providing unextended employment insurance benefits.

Now, the Senator in this legislation has not, as I understand it, sought to do some of the other proposals that have been floating around here in terms of providing a more extended coverage of the system, upping the benefits and other proposals.

There are many who think the existing system is inadequate. She is not seeking to correct that, as I understand it. We are only seeking to do this 13-week extension. I certainly think we ought to do that before this Congress leaves.

I thank the Senator.

Mrs. CLINTON. I thank the Senator.

Mr. NICKLES. Will the Senator yield?

Mrs. CLINTON. Yes, I yield to the Senator from Oklahoma.

Mr. NICKLES. I want to make a statement. Too many times it happens—the Senator yields to me to ask a question, not to make a speech—many times in the debate people have yielded the floor as if they control the floor. The Presiding Officer controls

the floor. The Senator can yield for a question but not yield for a speech. I did not hear a question the last time. I do not want to get too technical, but we ought to adhere to normal Senate rules.

Now my question: The Senator is trying to pass a bill. I stated that the bill is a 26-week extension, not a 13-week extension. I keep hearing people say it is a 13-week extension. That is not factually correct. It is a 26-week extension. If you just entered into the program, am I not correct, you can exhaust your 26 weeks of State benefits and qualify for 26 weeks of 100 percent Federal benefits? It is a 26-week extension which doubles the cost of the program. It is a \$17 billion program. Am I not correct—I want to be factually correct. If I am wrong, I am happy to be corrected. But am I not correct it is really a 26-week extension for anybody entering into the program? So people could qualify for 26 weeks of State benefits and 26 weeks of Federal benefits if the Senator's bill should pass?

Mrs. CLINTON. With all due respect to my friend from Oklahoma, that is not what the bill says. The bill provides 13 weeks for those first coming into the system, but for people who have already exhausted their 13 weeks, it does provide an additional 13 weeks, which adds up to 26 weeks.

Maybe it is not artfully enough drafted. I certainly have the greatest respect for my colleague from Oklahoma, who is one of the premier legislators in this body, but if it is not clear, then I will be more than happy to write it so it is absolutely clear.

The intention is, as I have stated, to provide an additional 13 weeks to people who have exhausted their benefits. To echo the eloquent comments of my colleagues from Washington and Maryland, there are lots of people out there. The Senator from Washington read the numbers. Let me give you one quick example.

Mr. NICKLES. I want an answer to my question.

Mrs. CLINTON. The answer is the bill does not provide for those first coming into the system 26 weeks. It does provide an additional 13 weeks so that those who have exhausted their first 13 weeks can have 26 weeks.

Mr. NICKLES. Will the Senator yield further for a question?

Mrs. CLINTON. Yes.

Mr. NICKLES. I believe the bill offers 26 additional weeks for anybody who just came into the system.

Mrs. CLINTON. We would be more than happy to clarify that. That is not the way the bill was intended. It certainly is not the way it was meant to be drafted. If there is any—

Mr. NICKLES. Will the Senator yield for an additional question?

Mrs. CLINTON. Let me finish my answer. You get to ask, I get to answer. My answer is, it is intended to be a 13-week extension. If there needs to be a cutoff point so it is absolutely clear that this is the intention, we stand ready to do that.

In contrast, the bill the House is working on is a 5-week extension for those who already are in the system, and then it is over. No more help. From my perspective, representing 300,000 unemployed New Yorkers, 120,000 of whom lost their jobs directly as a result of September 11, it is very hard to go back to New York and look at people such as Felix Batista who worked for 22 years at Windows on the World, with four children—luckily was not there that day when the terrorist attack occurred—and has not been able to find work, even though we have all been trying to help him. He is a man of limited skills, but a good, hard-working person, a father of four. He has no help. What is he supposed to do? Let me ask that question of the Senator from Oklahoma. Where is my office supposed to send literally thousands of people who have no work because the economy is not producing jobs?

Mr. NICKLES. Will the Senator yield for an additional question?

Mrs. CLINTON. Yes, I will be more than happy to yield.

Mr. NICKLES. The proposal before us still has the adjusted insured unemployment rate to where it includes the following paragraph:

Except that individuals exhausting their right to regular compensation during the most recent three calendar months for which data is available before the close of the period for which such rate is being determined shall be taken into account as if they were individuals filing claims for regular compensation for each week during the period for which the rate is being determined.

Basically that means if someone even completes the system and gets a job, they still are counted as unemployed; is that still in this legislation?

Mrs. CLINTON. What we did, in response to the Senator from Oklahoma—and maybe we were misinformed about this—we went back to our last recession under the previous President Bush. We thought that would be a good model as to what was done five times to extend unemployment insurance benefits. We took the language the first Bush administration and the bipartisan body here at that time decided was the appropriate legislative language to bring about the result that people agreed was needed.

If it was in some way misguided to rely upon the first Bush administration's extension of unemployment insurance, then we are going to say we did the best we could to look at what had been effective and worked in the past.

In direct response, the people who are still being counted in the unemployment insurance is a relatively small number because, obviously, to get them on and off does take some bureaucratic and technical adjustments. There are certainly some—I am sure I could find a few in Oklahoma and a few in New York. But the fact is the overwhelming number of people who will be eligible and will receive benefits are people who deserve it, and that is, I think, the goal we should be addressing.

Mr. NICKLES. So the answer to my question is that language is still in the bill?

Mrs. CLINTON. We have the same language that was used in the first Bush recession. Now we are in the second Bush recession. We are using the same language. It worked then.

Mr. NICKLES. Will the Senator yield again? So that language is still in there. I will tell my colleague, I will never agree to this language passing. I will also tell my colleague, if she is politicizing this, talking about the first Bush recession and the second Bush recession, the first compensation package did not have the same triggers. I did not agree with the first. I do not like the language that somebody who gets a job is still counted as unemployed for these rates. I would never agree to it. I did not know it was in the first program ten or so years ago, and it will not be in the next one if I am still standing around here.

I also ask my colleague, are not the triggers different under this proposal than the compensation packages that passed in the early nineties?

Mrs. CLINTON. It is the same kind of trigger, I am advised.

Mr. NICKLES. There are different triggers. More States would qualify for greater benefits; is that not correct?

Mrs. CLINTON. It includes States with concentrated high unemployment. That is true, there is a slightly different trigger. Again, I was not around in 1991 and 1992, so I cannot speak to what the Senator would or would not have done. The fact is, we have a problem. We have tried repeatedly—eight separate times—to work out some way to provide some additional benefits for people who deserve them. If there is a way to work out a better approach, to do something that will clearly meet the objections of the Senator from Oklahoma, I stand ready to do that.

I am just worried about all of these decent people who are running out of unemployment benefits. There is nowhere for them to go. I do not know what else to bring to the floor other than those stories. We can argue about triggers. I am sure between the two of us, we can fix a trigger if there was a willingness to act on that. What is coming over from the House, larded with other controversial provisions, is not a good-faith effort to extend unemployment benefits to people in need. It is an effort to basically try to say something was done which will not have any lasting benefit for those who are most in need.

Mr. NICKLES. Will the Senator yield?

(Ms. CANTWELL assumed the chair.)

Mrs. CLINTON. Clearly, if the Senator from Oklahoma is going to object to our following the precedent of the triggers of the President Bush 1 package, then obviously we are going to have to go back to the drawing board.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar

No. 619, S. 3009, a bill to provide for a 13-week extension of unemployment compensation; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, reserving the right to object, the UC request, as I read it, says it is a 13-week extension. The bill before us is a 26-week extension. A 13-week extension, I believe, costs \$7.3 billion; a 26-week extension cost—by CBO—is \$17.1 billion. That is the proposal before us, and, therefore, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that we now automatically go to the homeland security legislation. Is that true?

Mrs. CLINTON. Will the Senator from Nevada yield?

Mr. REID. Yes.

Mrs. CLINTON. Did the Senator from Oklahoma actually propound an objection or reserve the right to object?

Mr. NICKLES. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. The two managers of this bill have been very patient and cooperative, but we have to ask their patience once again. We have a matter that the Senator from Minnesota, Mr. BARKLEY, wishes to bring forward in honor of Senator Wellstone. This will take a short period of time, and I ask that we be able to move to that at this time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask for time before the Senators from Minnesota speak.

Mr. REID. I ask that the Senator from Washington be recognized after the two Senators from Minnesota speak. Would that be appropriate?

Mrs. MURRAY. How much time will the Senators from Minnesota require?

Mr. REID. Could I ask of my two friends how much time they wish to take on this matter?

Mr. BARKLEY. Madam President, I wish to take approximately 4 minutes.

Mr. DAYTON. Madam President, I will be approximately the same.

Mr. REID. I ask unanimous consent that the two Senators from Minnesota be recognized for 10 minutes equally divided between the two of them. Following their statements—I understand they want to move legislation—I ask unanimous consent that the Senator from Washington be recognized.

Senator MURRAY indicates she only wishes to speak for up to 5 minutes. So I am sure my two friends would allow

her to proceed for up to 5 minutes, and then following that the two Senators from Minnesota would be recognized for up to 10 minutes.

Following that, we will definitely go to the homeland security bill. There are people waiting to offer amendments. So I make that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleague from Nevada for his indulgence, and I thank my colleagues from Minnesota for allowing me a few minutes before they pay a very important tribute to Senator Paul Wellstone.

PIPELINE SAFETY

Mrs. MURRAY. I rise today to note a very significant event that occurred last night on the floor of the Senate, and that was the passage of the pipeline safety conference report.

As the Presiding Officer knows, in our State of Washington, a tragic accident occurred 3½ years ago when a pipeline blew up on a sunny June afternoon, tragically killing three young children in our State and devastating a mile-wide section of a river that travels through Bellingham, WA. This was a traumatic event that has impacted the lives not only of those families and their friends but hundreds of people in Bellingham and across this country.

At the time, I thought this was a uniquely tragic accident that occurred in my State when a pipeline suddenly blew up on a sunny Friday afternoon, after school. But after coming back to Washington, DC, and researching what was known about pipelines, I found out that in a short time period, between 1986 and 1999, there had been 5,700 pipeline accidents.

What happened in my home State was not unique. Three hundred twenty-five people had died in that time period. There had been 1,500 injuries that had occurred and \$850 million in environmental damage. Working with many colleagues, Senator MCCAIN, who chaired the Commerce Committee, and Senator HOLLINGS, who worked diligently with me, Senators INOUE, BREAUX, WYDEN, BROWNBACK, BINGAMAN, DOMENICI, CORZINE, TORRICELLI, my colleague who is presiding today, Senator CANTWELL, and former Senator Gorton, made this an issue in this country. It has been a long and difficult road. We have passed this bill out of the Senate on several occasions. We have been stopped in the House, and today we are finally at a point where the House, I believe, is going to pass this legislation as well, and it will be sent to the President of the United States. It will put into place significant new improvements on training and qualifications of our pipeline personnel, on inspection and prevention practices, on tough penalties for people who violate this, and States' abilities to expand their safety activities.

For the thousands of families who live next to pipelines, who work next to pipelines, who send their kids to schools next to pipelines, this is definitely an improvement in our law.

Is it everything we ask for? No. But today I want to rise and thank all of my colleagues, and Congressman LARSEN as well, for finally moving us to a point where the families of Wade King, Stephen Tsiorvas, and Liam Wood can realize the hard work they have put in is going to finally result in a change of law that means some future child, some future family, some future community, will not have to face the situation as they have.

I thank my colleagues for their work on this, and I look forward to having the President sign this into law.

I yield the floor.

PAUL AND SHEILA WELLSTONE CENTER FOR COMMUNITY BUILDING ACT

Mr. BARKLEY. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 3156, introduced earlier today by myself and Senator DAYTON.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3156) to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

There being no objection, the Senate proceeded to consider the bill.

Mr. BARKLEY. Madam President, today, Senator DAYTON and I are introducing legislation to pay tribute to Senator Paul Wellstone and his beloved wife Sheila.

Our legislation would provide a \$10 million authorization of Federal funds for construction of the "Paul and Sheila Wellstone Center for Community Building" at Neighborhood House in St. Paul, MN, where Paul and Sheila lived.

First, let me thank the leadership on both sides of the aisle for facilitating consideration of this legislation. Senator DAYTON and his staff, Senator Wellstone's family and staff, and especially my colleague from West Virginia, Senator BYRD, have literally moved heaven and earth to bring this bill to the floor.

I may be the newest Member of this Chamber, but I fully appreciate the extraordinary efforts of so many to allow Senator DAYTON and I to create a living legacy in honor of Paul and Sheila Wellstone in such short order.

Neighborhood House was founded by the women of Mount Zion Temple in the 1880's as a settlement house, helping newly arrived Eastern European Jewish immigrants to establish a new life and thrive in their new community.

Senator Wellstone always had a genuine affinity for Neighborhood House,

as his parents, Leon and Minnie, were Russian Jewish immigrants themselves. But his affinity reached far beyond this personal link. Neighborhood House truly embodies everything that Paul Wellstone fought for over the course of his entire life: that all people, no matter their background or economic status or country of origin or race or creed, would have a fair shake at life, and an opportunity to belong to and enrich their communities.

Neighborhood House has been building doorways of opportunity for diverse communities for nearly 120 years. The Neighborhood House is a multicultural-multilingual agency that provides and houses an array of programs, including legal services, child care, recreation programs, senior programs and education. "Senator Paul," as he was referred to by many at Neighborhood House, came every year to the Freedom Festival at Neighborhood House to honor the new American citizens from the Hmong, Latino, and other communities.

Indeed, the entire Wellstone family was very committed to Neighborhood House. Just 2 weeks before their deaths, Senator Wellstone sent his daughter Marcia to tour Neighborhood House and talk with staff about important issues for our community.

In addition, Sheila Wellstone's championing of women's issues is embodied in Neighborhood House programs such as Hispanic Women in Action, a cultural empowerment group that enables women to retain their culture while learning a new one, address challenging family issues, and develop into leaders not only for their families but also their community.

When Neighborhood House began to research the construction of a new facility to meet growing needs, it was Senator Wellstone himself who suggested that the organization seek a Federal statute to help fund the construction.

The Paul and Sheila Wellstone Center for Community Building will be a 93,000 square foot state-of-the-art community gathering place on St. Paul's west side. It will house social services, community engagement, recreation, and arts programs for residents of St. Paul, as well as new Americans in the greater Twin Cities area.

The Paul and Sheila Wellstone Center for Community Building will also serve as an education and learning center for communities throughout the entire State of Minnesota. Last evening, the memorial program for the service to celebrate the lives of Paul and Sheila Wellstone contained these words:

Complete those dear, unfinished tasks of mine. And I, perchance, may therein comfort you.

Paul, this is our first step toward finishing your work. I also commit to working during my short tenure in this distinguished body to try to help pass your signature legislation, the Mental Health Parity Act.

Again, I thank the Senate leadership for the extraordinary accommodation

to allow us to bring this bill to the floor today. It, too, is a tribute to the respect and love of Paul Wellstone by his Senate colleagues.

I yield the floor.

Mr. DAYTON. Madam President, I am proud to join with my colleague, Senator BARKLEY, in cosponsoring the Paul and Sheila Wellstone Center for Community Building Act. I pay tribute to my colleague, Senator BARKLEY, for taking the initiative on this matter, for your leadership. I believe it has been one week to the day since the Senator arrived in Washington, and even before he had undertaken the oath of office and assumed the official title of Senator from Minnesota, he was acting on behalf of our State.

He deserves the credit for this measure. Others are moving Heaven and Earth, as the Senator said. I believe he is too modest. He is the prime mover in this matter. I salute my colleague for his doing so under such extraordinary circumstances. I could not think of a better way for anyone to begin service in this Chamber than to honor our colleague, Paul Wellstone, and his wife Sheila, who cared about these matters from their own heart.

As Senator BARKLEY said, with the experience that Paul had being the son of immigrants and his undying compassion for those who came to this country under any circumstances, Paul's concern extended beyond those who could do him some good in this society. Paul's concern was for those he could do good in this society. He devoted countless hours, thousands and thousands of hours to people and causes where there was no benefit for him, there was no political advantage.

Most of the people coming to this center were not citizens and would not be for a number of years. Paul did it out of his heart; Sheila did it out of her heart, out of their common compassion for their fellow citizens, with no thought of gain or benefit to themselves.

This is a fitting first tribute. I hope it will be only the first tribute. I join with Senator BARKLEY in asking my colleagues here and in the House to ultimately pay tribute to Paul and Sheila, especially Paul, since this was his matter of concern, the Mental Health Parity Act. He worked tirelessly with Senator DOMENICI to pass this in the Senate, and unfortunately it was not adopted in conference committee.

I join Senator BARKLEY in hoping that measure could be passed in this session. If it is not possible, I will do everything I can, working with Senator DOMENICI and others next year to see it does pass. This is an important statement of the Senate and the House. We need to pass it, honoring Paul and Sheila Wellstone. It is appropriate because it symbolizes that compassion, that spirit of humanity which marked their lives.

The PRESIDING OFFICER (Mr. JOHNSON). Do Senators yield back their time?

Mr. BARKLEY. Mr. President, I ask unanimous consent the bill be read three times and passed and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3156) was read the third time and passed, as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paul and Sheila Wellstone Center for Community Building Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Senator Paul Wellstone was a tireless advocate for the people of Minnesota, particularly for new immigrants and the economically disadvantaged.

(2) Paul and Sheila Wellstone loved St. Paul, Minnesota, and often walked the neighborhoods of St. Paul to better understand the needs of the people.

(3) Neighborhood House was founded in the late 1800's in St. Paul, Minnesota, by the women of Mount Zion Temple as a settlement house to help newly arrived Eastern European Jewish immigrants establish a new life and thrive in their new community.

(4) Paul and Sheila Wellstone were very committed to Neighborhood House and its mission to improve the lives of its residents.

(5) When Senator Wellstone became aware that the Neighborhood House Community Center was no longer adequate to meet the needs of the St. Paul community, he suggested that Neighborhood House request Federal funding to construct a new facility.

(6) As an honor to Paul and Sheila Wellstone, a Federal grant shall be awarded to Neighborhood House to be used for the design and construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

SEC. 3. CONSTRUCTION GRANT.

(a) GRANT AUTHORIZED.—The Secretary of Housing and Urban Development shall award a grant to Neighborhood House of St. Paul, Minnesota, to finance the construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

(b) MAXIMUM AMOUNT.—The grant awarded under this section shall be \$10,000,000.

(c) USE OF FUNDS.—Funds awarded under this section shall only be used for the design and construction of the Paul and Sheila Wellstone Center for Community Building.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for fiscal year 2003, which shall remain available until expended, to carry out this Act.

The PRESIDING OFFICER. The Senator from Connecticut

Mr. LIEBERMAN. I congratulate our new colleague from Minnesota, not only for the nobility of the purpose for which this legislation is dedicated, to honor the memory of our dear friends Paul and Sheila Wellstone, but for the fact he achieved the passage of a measure so early in his time here as a Member of the Senate. I congratulate him for his purpose and for his success.

HOMELAND SECURITY ACT OF
2002—Resumed

The PRESIDING OFFICER. The clerk will report the pending business. The bill clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Thompson (for Gramm) amendment No. 4901, in the nature of a substitute.

Lieberman/McCain amendment No. 4902 (to amendment No. 4901), to establish within the legislative branch the National Commission on Terrorist Attacks Upon the United States.

Mr. LIEBERMAN. Mr. President, I will speak on the substitute on homeland security introduced yesterday by Senator THOMPSON on behalf of Senators GRAMM and MILLER. My feelings about this substitute, to put it as directly as I can, are mixed. The substitute would create a single strong Department of Homeland Security under the leadership of an accountable Secretary, which many Members have supported, actually, for more than a year now in response to the terrorist attacks of September 11, 2001, and the dangerous vulnerabilities in our federal homeland security system that those attacks revealed.

The substitute is also problematic in many ways. I categorize them in four chunks.

First, this substitute contains several provisions that are just ill-conceived, missed opportunities to close vulnerabilities in our security or that otherwise make the wrong choice.

Second, the bill contains provisions that are unrelated to homeland security legislation. Apparently, as often happens in Congress, some of our colleagues have decided to put the provisions on what they assumed was the last bus out of town during this session rather than waiting for the right ride.

Third, the bill contains provisions that do seem, as we approach December, to be gift wrapped by lobbyists to satisfy some special interests, not carefully considered to improve the security of the American people.

Fourth, a number of provisions in the bill are 11th hour additions, new to everyone in the Senate, not previously included either in the legislation that came from our Governmental Affairs Committee or in the so-called Graham-Miller substitute, at least in its previous iterations. This makes it difficult to know whether these provisions are good or bad. It is in that sense that these last-minute conditions on a critically important bill are not up to the standards the Senate should follow, and are not of the urgent necessity that cries out for this bill, which is to protect the homeland security of the American people.

There are many good things to say about the substitute in a number of areas. The bill has made real progress from earlier proposals, both from the President and from our Republican colleagues. I am grateful, once again, as

in the previous Gramm-Miller substitute, the overall architecture and composition of the proposed Department of Homeland Security is quite similar to what we conceived in the legislation approved by the Governmental Affairs Committee, first on a partisan vote in May and then unfortunately in a bipartisan vote in July of this year.

This bill, the substitute, would create a new Department with major provisions responsible for border and transportation security, intelligence, and critical infrastructure protection, emergency preparedness and response, science and technology, and immigration services.

This bill is nearly identical to the bill approved by the Governmental Affairs Committee in deciding which domestic defense-related agencies and offices should be transferred and how they should be organized. In fact, when we say, as has been said so often in this debate in this Chamber, that there is agreement on 90 to 95 percent of what we should be doing here with regard to homeland security, that is what we mean. We mean we agree on the big picture, if I may put it that way. That is a big deal.

We recognize that today's terrible vulnerabilities are there and we agree not only on the need for a comprehensive reorganization to close those vulnerabilities but almost all of the components that have reorganization.

Today, homeland security is institutionally homeless—everyone is in charge and therefore no one is in charge. Under this substitute, as under our committee-approved legislation, that will no longer be the case. Under this bill, as under our bill, for the first time we would bolster emergency preparedness and response efforts to ensure that all areas and levels of government are working together to anticipate and prepare for the worst. Today, the fact is that coordination of our homeland security agencies is the exception, not the rule. That is unacceptable.

Under this bill, as under our bill, for the first time we will have a single focal point for all of the intelligence available to our Government so it can be properly fused and analyzed, and so that we will enhance our ability to deter, prevent, and respond to terrorist attacks.

This was clearly one of the most glaring weaknesses of our Government leading up to September 11, 2001, as the excellent work done by the Joint Intelligence Committee investigations has made clear.

Under this bill, again as under our committee bill, for the first time we would build strong bonds between Federal, State, and local governments to target terrorism. State and local officials are on the front lines of the fight against terrorism, as we learned so clearly and painfully in the death tallies of the September 11 heroes. Today, local communities are waiting for bet-

ter training, for new tools, and for coordinated prevention and protection strategy. And this proposal, as under our committee bill, would accomplish that.

Under this bill also, as under our committee bill, for the first time we would bring key border and national entry agencies together to ensure that dangerous people and dangerous goods are kept out of our country without restricting the flow of legal immigration and commerce that clearly nourishes our Nation. Today, threats to America may be slipping through the cracks because of our disorganization, and that is indefensible.

Under this bill, as under our bill, for the first time we would promote significant new research and technology development opportunities and homeland defense. The war against terrorism has no traditional battlefield. One of the untraditional battlefields where we must fight to emerge victorious is the laboratory. Today these efforts are dispersed and often blurred. That is unwise. We cannot tolerate this any longer.

Under this bill, as under our bill, for the first time we would facilitate close and comprehensive coordination between the public and private sectors to protect critical infrastructure. Fully 85 percent of our critical infrastructure is owned and operated by the private sector. We are talking here about electric grids, transportation, food distribution systems, cyber-systems, and the like. We have to close vulnerabilities in those systems before terrorists strike them. To do so, we have to be working with the private sector.

In all of these areas, this piece of legislation, the substitute, will usher in, I am confident, a much more secure nation. Beyond its overall structure, I am also pleased the substitute has moved toward our committee-approved bill in a number of specific areas, namely intelligence, science, and technology, workforce improvement, and appropriations. I want to discuss these each briefly now.

First, intelligence. The President's initial proposal had a very limited conception of the intelligence powers and responsibilities of the new Department. The intelligence provisions in this bill borrowed heavily from our legislation, and as a result will give our Government a much better opportunity to avoid repeating the disastrous disconnects that prevented us from connecting those dots before September 11.

First, the bill would, like our committee legislation, make it clear that the purpose of the new Department's information analysis function includes fusing, analyzing, and disseminating intelligence to deter, prevent, preempt or respond to all terrorist threats against the United States. That is a central change from the President's initial, more limited conception of an intelligence division designed primarily to protect our critical infrastructure. We argued that was inadequate because—well, the World Trade

Center itself, and the Pentagon, are not parts of our traditional critical infrastructure, nor are shopping malls and places of public gathering which terrorists unfortunately strike.

This substitute also made progress in priority setting. It gives the Under Secretary the authority to work with the Director of Central Intelligence and other agencies to establish intelligence collection priorities and insures that the Department of Homeland Security will be at the table with the rest of the intelligence community when intelligence requirements and priorities are established.

Finally on this point, the bill does seem to have moved closer to the committee bill on the crucial issue of access to information by giving the new Department access to information except in cases where the President objects.

However, some differences do remain on intelligence. Rather than creating separate Senate-confirmed Under Secretary positions to oversee intelligence analysis and infrastructure protection, the substitute creates Assistant Secretaries within the same division of the new Department. In my view, intelligence and infrastructure protection should each be led by a separate Senate-confirmed Under Secretary, each of whom can bring the necessary clout, attention, resources, and attention to those complex and different challenges. The access to information provisions—Senator SPECTER and I agree, and he may also have an amendment on them—also could be enhanced.

On the whole, however, this critical function of the Department, intelligence, has been greatly improved in this substitute. The Department created by this bill will systematically organize, scrutinize, and bring together all relevant data in order to much better protect the American people from terrorism.

Science and technology next. So, too, has this substitute moved toward our legislation on science and technology. Our committee worked very hard to give this new Department the creative abilities it needs to develop and deploy a full range of technologies to detect and defeat danger on our home soil.

In World War II, of course, we had the Manhattan Project, scientists who came together to design revolutionary weaponry which was ultimately decisive in that war.

In the war against terrorism here at home, we need revolutionary defense technologies, machines that can scan for dangerous materials—biometric identification systems, information analysis software, vaccines and antidotes to deadly pathogens—poisons. The list goes on and on, most of it probably at this moment unimaginable in detail but critically important to our future security.

I am very gratified to see the substitute before us provides for a Directorate of Science and Technology headed by a Senate-confirmed Under Sec-

retary, a Homeland Security Advanced Research Projects Agency that is modeled after DARPA in the Department of Defense, federally funded research and development centers to provide analytical support to the Department, and a mechanism for allowing the Department to access any of the Department of Energy laboratories and sites.

All of these were not included in the President's original homeland security proposal. I am grateful to the authors of the substitute for including them now.

There are some other points of progress in the bill I think are worth noting.

First, thanks I gather in large measure to the effective advocacy by the senior Senator from Alaska, Senator STEVENS, and unlike the President's original proposal, this substitute has wisely preserved congressional accountability over spending by the new Department—after all, that is our constitutional role—and in doing so has rejected the administration's call for expansive authority to shift money among accounts—appropriated money, the public's money—without approval by Congress.

Second, this bill has made significant strides in safeguarding the Department's integrity, cost-effectiveness, and respect for individual rights.

The original Gramm-Miller substitute, offered on behalf of the administration, would have created a department without a civil rights officer or privacy officer, and with an inspector general over whom the Department's Secretary would have had unprecedented authority, thereby making it possible that the inspector general's independence would have been compromised.

In this new substitute now pending, there is once again a civil rights officer in the Department, there is a privacy officer, and the Secretary's authority over the inspector general has been substantially checked.

I wish the improvements had gone further. Our committee-endorsed bill, for instance, would have given the civil rights officer and the inspector general more authority than the substitute does and, therefore, help assure a new Department of Homeland Security that would more likely adhere to the highest standards of values and conduct. But I am grateful for what has changed in this substitute.

Finally, I am pleased that the substitute amendment has incorporated the entire Federal workforce improvement bipartisan proposal developed by Senators AKAKA and VOINOVICH, both distinguished members of our Governmental Affairs Committee. That reform package will help this Department and all other Federal Departments attract, retain, and reward the best talent with the help of new personnel management tools and management flexibility given to the new Secretary.

Mr. President, unfortunately, as I said at the beginning, there is some

bad news. That was the good news in the substitute. There is some bad news as well.

While this bill, as I have just indicated, does incorporate, particularly in the Akaka-Voinovich agreement, some substantial human capital reforms for the Federal workforce, it unfortunately also takes a step backward in other related areas. On the personnel issues—the Federal workforce issues that became such an unfortunate wedge between us here in this Chamber for so long—I must say I am not happy with the outcome. I don't want to rehash the arguments for and against keeping civil service protections in place and giving union representative employees basic protection against having their rights arbitrarily terminated. But let me just say this. What motivated us all along was a desire to ensure this new Department would from day one have not only the best leadership, the most sensible organization, and the resources necessary to do the big job we are giving it, but that it would also have the highest quality and best motivated workforce it could possibly have; that we would not begin the history of this new Department with expressions of suspicion about the commitment—even perhaps the patriotism—of these Federal employees, but that we would engage them together as part of a team, as respected members of the team, and indeed as those members of the team who would be doing the critical work every hour of every day to protect the security of the American people at home.

We often in our debate referred to the events of September 11 and the fact that those firefighters and police officers who we honored for their heroism, who we mourned for the ultimate sacrifice that they gave, were all members of unions, were all governed by civil service rules. But in the hour of crisis, in the hour of public need, not a single one of them but for a second thought about their union rights, or their collective bargaining agreement, or their civil service agreement. They rushed to the duty that they had, and accepted it as public employees.

At one point a few months ago, a group of us met with a battalion chief from the New York City Fire Department. He told us that on that day, September 11, he was off duty with a group of friends who were off duty. When they heard the planes had hit the World Trade Center, they just rushed to the scene. He talked about terrible frustration and heartbreak because some of his colleagues, when they got to the scene, were told they could not go into the building to try to rescue those who were there. That is what public service is about. Civil service protections and collective bargaining rights never come between public employees and their obligation or responsibility to do duty. It was shown over and over again by the Federal employees in the departments and agencies that will be consolidated into this new Department.

On this front, this substitute continues to be a disappointment to me. The bill fails to correct major problems in the previous Gramm-Miller substitute, and, as a result, I fear, invites politicization, arbitrary treatment, and other personnel abuses in the Federal Government in a way that may damage the merit-based workplace Federal employees and the American people—we the American people—who these Federal employees serve and in this new Department must protect have come to depend upon.

I hope, of course, that what many fear does not occur and that if, or probably when, this substitute passes, this and future administrations will not overstep their bounds, will not unfairly use the unprecedented authority they are given in parts of this legislation, and will not undermine thereby the effectiveness of the new Department.

I must say I still personally fail to understand why any President would need to remove collective bargaining rights from unionized employees who have a long and proud history of helping to protect the homeland, as the 45,000-some employees who will be unionized of the 170,000, who will be moved to this Department, and who will continue to do exactly the same work they have done for decades.

While previous Presidents have had the same authority and have not exercised it to remove their collective bargaining rights, they will continue to do that work in this new Department. If and when this President or any future Presidents should decide to eliminate collective bargaining within a unit of the Department—as they will have the legal power to do if this substitute passes unilaterally—I am confident the Congress will not just sit back and watch.

We will expect the President to take such a step only if it is truly essential to national security and not merely a management convenience or an ideological compulsion. We will expect the Department's leadership will have first made good-faith efforts to work cooperatively with their employees who are union members, determining that union representation is in fact incompatible with national security. We will expect the explanation the President provides to Congress, required under this substitute, to be thorough. The administration for its part has said, particularly in recent days, it is not out to break Federal employee unions, but only to retain an extraordinary authority that has been exercised only a handful of times over the last four decades. We in Congress and our successors and I believe the American people will hold both this President and his successors to that promise.

When it comes to the creation of a modified personnel management system, we expect the employees in the new Department will be hired, promoted, disciplined, and fired based only on merit. We expect that if and when existing civil service rights and protec-

tions are altered or removed, the administration can demonstrate a clear need for doing so in the context of the homeland security mission of the Department. We expect fair and independent procedures will be maintained for all employees with grievances, especially those who allege abuse or corruption within the Department—whistleblowers. We expect changes to the system will be carefully crafted through negotiation and collaboration with employees and their representatives at all levels, from the rank and file to top echelons of management. And if a disagreement arises, or an agreement is not possible to obtain, the required 30 days of mediation and negotiation between the administration and the unions will be substantial and in good faith, not cosmetic.

The administration has pledged not to undermine the integrity of a merit-based public-sector workplace. Here again, the American people and we in Congress will be watching, and watching carefully.

Let me discuss a few other concerns that I have about the substitute. On immigration, this bill takes what, in my view, is a step backward from our committee-approved legislation by splitting the Immigration and Naturalization Service programs between the Border Directorate, where all immigration enforcement will be housed, and a new Bureau for Citizenship and Immigration Services, which will handle immigration services.

I am concerned that this configuration may diffuse responsibility for immigration policy and coordination among a large number of officials. And it is contrary to the earlier bipartisan Kennedy-Brownback immigration legislation.

I am also troubled that the bill weakens provisions we had carefully developed to ensure that the independence of immigration courts would be preserved and that vulnerable child aliens would not be lost in the shuffle to the new Department.

I regret that the bill would shield private-sector information that is voluntarily submitted to the new Department from the Freedom of Information Act from being used in civil litigation and even from release by State and local governments under their own sunshine laws. That is a major retreat from the carefully crafted bipartisan Bennett-Levin-Leahy compromise that was included in our committee bill and in the Gramm-Miller substitute in its original form, and is of particular concern to community groups, workers, environmental advocates, and watchdogs who depend on access to this information to help them reduce environmental health and safety risks to themselves, their families, and the public.

In addition, out of the blue, if I may phrase it that way, this substitute includes a provision that had not been seen in any previous proposals regarding homeland security, and that would

take complaints about vaccine additives out of the courts and require them to be made through the Federal Vaccine Injury Compensation Program.

That would affect potential claims involving the mercury-based preservative thimerosal. Because there are a number of class action lawsuits pending on this issue, this is a highly controversial and complicated issue, one that the relevant committee of the Senate, which has been working on it, the HELP Committee, has not been able to come to a consensus on after several months of deliberation.

So why is this provision being rushed through now in the context of homeland security legislation in a way that makes it very hard for us to reach a proper conclusion, though we have very significant fears that rights of injured parties are being severely limited?

The bill also omits a vital provision in our bill that would have provided \$1 billion for each of the fiscal years 2003 and 2004 to local governments to hire firefighters. This provision, sponsored in our committee, and cosponsored—again, bipartisan—by Senators Carnahan and Collins, would create what is effectively a firefighter's version of the immensely successful and productive and valued COPS Program that we created in the 1990s. I believe it started in 1994 for police officers locally.

After September 11, the firefighters are people we depend on, particularly in an emergency. The fire departments have taken on new responsibilities throughout the country post September 11 and are doing more hiring, so we need to help them pay for their new personnel. We need to help them train and equip those personnel. Unfortunately, that pathbreaking, productive, progressive provision has been taken out of the substitute.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LIEBERMAN. I will yield for a question from the Senator from West Virginia.

Mr. BYRD. My question is this: The distinguished Senator is pointing out some very glaring differences between the bill—I call it a bill. Is this the hydra-headed monster that has come over from the House in the last 24 hours or so? And is this the item before the Senate today? And is this the vehicle to which the distinguished Senator from Connecticut is addressing his remarks? That would be my first question.

Mr. LIEBERMAN. Through the Chair, I thank the Senator from West Virginia.

The House, last night, adopted a proposal which I gather is essentially the same, perhaps totally the same, as this substitute which was offered yesterday by Senators THOMPSON, GRAMM, and MILLER.

Mr. BYRD. So what we have before the Senate—Mr. President, will the Senator yield further?

Mr. LIEBERMAN. I will.

Mr. BYRD. What we have before the Senate is a massive piece of legislation with 480-odd pages, that has been virtually dropped into our laps within the last 36 hours, allowing for yesterday and thus far today. This is a virtually new bill, as I see it; is it not? It is something that was—I read about it in the newspapers—something to the effect this is a compromise that was passed by the House and sent to the Senate. It is now under discussion in the Senate.

The distinguished Senator from Connecticut is performing, as I see it, a great service in addressing his remarks to this monstrosity. That is my word for it. It is a monstrosity. It is almost 500 pages, and it is just suddenly dropped into our laps. This is not the bill which came out of the committee chaired by the Senator from Connecticut, is it?

Mr. LIEBERMAN. I thank the Senator. As I said at the outset of the remarks I am giving here, there is a lot that is in this substitute that has, in fact, been taken from our committee bill. But as I am enumerating now, there is a lot also that has been added, and some of it really at the last moment.

Some of it is compromise legislation, for instance, on the question of Federal worker rights, which we have been debating here for several weeks now. But some of it, such as the provision on child vaccine and the liability of pharmaceutical companies in cases of injury from that vaccine, we have never seen in any of the many forms of homeland security legislation that have been introduced or discussed, and not only in the Senate but I believe in the House as well.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a further question?

Mr. LIEBERMAN. I will.

Mr. BYRD. Mr. President, in speaking of the vaccines, as you know, in this town, and in this Chamber, there is often a great deal said about pork, about pork, and particularly with reference to appropriations bills.

This seems, to me, to be some pork—some pork—in this bill for the pharmaceutical companies.

That is what it sounds like. I believe the distinguished Senator from Illinois will later have something to say about this, possibly have an amendment in regard to it. That was kind of what I understood from a conversation earlier today. It sounds to me as if this is something brand new to the distinguished Senator from Connecticut.

What I am leading up to is this question: Here we have a bill we are being asked to pass virtually sight unseen. We have had yesterday and thus far today to study this new vehicle that has come to us from the House, passed by the House, I believe. And this vehicle itself did not come before the committee that is so ably chaired by the distinguished Senator from Connecticut. This is a new piece of legisla-

tion, virtually sight unseen in many ways. There are many parts of it, of course, that, as the distinguished Senator from Connecticut has indicated, were probably lifted out of the measure which he and the other members of his committee, both Republicans and Democrats, reported from that committee some several months ago, that bill we referred to back in those days as the Lieberman substitute.

Mr. LIEBERMAN. I remember those days fondly.

Mr. BYRD. Yes, I remember them fondly also.

Mr. LIEBERMAN. I thank the Senator.

Mr. BYRD. But I am very disturbed by the fact that here we have before the Senate a measure which is in many ways a measure that has not been seen, studied, except for the few hours of yesterday and today we and our staffs have been able to allot to it. This is something new, and we are going to be asked to vote on cloture on this vehicle, this piece of legislation. We are going to be asked to vote on cloture by no later than tomorrow on this matter, and we don't know what is in it. I don't know what is in it. I have had my staff on it since yesterday when it first made its appearance in my office in the form of several separate pages which I hold in my hand, various and sundry pieces of it, almost 500 pages.

Here we are going to be asked to vote on cloture on this measure tomorrow. I hope we don't invoke cloture. I hope Senators will not vote to invoke cloture on this matter tomorrow. The Senate is entitled to have more time in studying this measure before we vote on it. The American people are entitled to know more about what is in this bill as it comes to us now from the House, what is in the bill before we vote on cloture. I think people are entitled to that.

I say to the distinguished Senator from Connecticut, again, he is performing an extremely important service to the Senate, to his people, and to the people of the United States. I was in my office when I heard him talking. I heard him talking about the vaccines. I heard him talking about other areas of the bill which are new to him, some of which he had not seen. He indicated they are new to him.

Why should we vote? I ask this question. The distinguished Senator may not wish to answer it right now, but it is a question. I am within my rights to ask the Senator a question, if he is willing to listen to my question. Perhaps this is a rhetorical question. But why should Senators invoke cloture? Why should Senators vote to invoke cloture on a measure when they don't know what is in it? Many of them did not know what was in H.R. 5005 before the August recess, and many of the Senators, I assume, did not know a great deal about what was in that bill even after we debated it for a considerable length of time.

The distinguished Senator from Connecticut has put most of the summer

and a great deal of the spring of this year into his bill. He and his committee have worked hard. Mr. THOMPSON and others have worked hard on this homeland security bill.

I will take my own time on the floor later today to say these things, but I will just say this: We are being impertuned by this administration, by this President, to vote quickly on this bill creating a department of homeland security. I think it is irresponsible for the administration to insist upon the Senate's acting on this legislation in such a great hurry.

One might say, well, they have had all summer. But we have not had all summer. We have something new here that was just brought into the Senate yesterday, and we are being impertuned to vote for this legislation before we go out of session, presumably maybe at the end of next week, maybe not. But I think it is most irresponsible for the administration to put this kind of pressure on the Senate, especially when the administration has turned its back on appropriations bills that have been reported from my committee, the committee chaired by me and the ranking member, Mr. TED STEVENS, former chairman of the Appropriations Committee and soon to be chairman again.

I think the administration has had before it these various and sundry appropriations bills, many of which contain homeland security appropriations. Yet this administration has put the pressure on the other body, the Republican-controlled House, not to pass those appropriations bills.

There was homeland security. There was real homeland security. If the administration would just have taken the bonds or the chains or the handcuffs off the House and let it act on those appropriations bills, there is homeland security. If we really want to do something for the people, do it fast for them—and I will go into this in greater length later today—there was the chance. Instead of putting the pressure on that, instead of pushing hard to get the appropriations bills through and get them down to the President so he could sign them, the administration has instead put great pressure on the Senate now to pass this homeland security bill.

Yet we don't know what is in the bill. We haven't had much time.

My question is—the Senator may not want to answer it—does he not think that the Senate ought to take more time before invoking cloture? I respect the fact that sooner or later cloture will be invoked. But it wouldn't hurt—I will say this on my own—for this bill to go over until next year when we could have more time to look at the 485 pages—I may be missing one or two—so that we could take our time and know what we are voting on.

They will say: Something may happen. The terrorists may strike. We need to get this done.

Let me say to my dear friend the Senator and other Senators and to the

Chair: Passing this bill won't make one whit of difference if a terrorist attack occurs tonight, tomorrow, next week, next month. Passing this bill will not make one whit of difference. The people who are to protect us under this bill, if we ever get the bill passed and get it implemented, this new department up and running, the people who will be ensuring the safety of the American people under this bill are out there right now: Immigration and Naturalization Service, the Customs Bureau, the policemen, firemen, the emergency health personnel, the border security personnel, the security at the ports. These people are out there now. They are out there every day.

This bill, only for political reasons, is going to amount to a hill of beans. That will be all it will be worth. They can say, well, they passed the bill. But it won't make the people of this country a bit more secure.

As a matter of fact, they will be lulled into a feeling of security when they will be very insecure with this bill—as much so, or more, perhaps, than if we didn't pass it. I am one of those who, first, may I say to my friend—if he will allow one further comment and then my question—I am one of those who first advocated a Department of Homeland Security; I am one of the first to advocate it. But I have had the bitter experience of trying to get the Director of Homeland Security up before the Appropriations Committee, and Mr. STEVENS, the ranking member, joined me in inviting Mr. Ridge up before the committee, but the President said no. He put his foot down and said, no, he is on my staff; he doesn't have to come. We had no alternative but to go ahead with the seven department heads and various and sundry mayors and Governors throughout this country, and police organizations, health organizations, firemen organizations, and so on.

We came up with a good bill. But in that bill, we also included language that would have required the Director of Homeland Security to be confirmed by the U.S. Senate. So we said, OK, it won't be done by invitation; you will come because you are going to have to be confirmed by the Senate, and then you will come. So the administration saw that coming down like a Mack truck. They saw it coming down the track. It passed the Senate with 71 votes—at least 71, as I recall. There wasn't a finger raised against that provision, not an amendment offered to strike that provision; and the administration saw that bearing down on them like a Mack truck, so they rushed to get ahead of the wave, which they are pretty good at doing. Out of the bowels of the White House, they hatched this idea of homeland security, and here it was—not here it is. This is something new. It came up here. This Department of Homeland Security had been hatched by Mitch Daniels, Director of the Office of Management and Budget, and by Andrew Card, and by Tom

Ridge, and Mr. Gonzalez, the White House counsel. Those four eminent public officials hatched up this great, grand idea and unveiled it.

The President called us down for the unveiling. I remember, he said he had to go to St. Louis to make a speech, but before he went, he said he had this package. He didn't explain what was in the package. He referred to it as "this package." He wanted to see this package passed quickly and he was going to have to go to St. Louis and make a speech. I seldom go down to the White House. I am not invited much anymore, but I am not crying about that. I don't want to go down there, as a matter of fact. I went down when I was majority leader and minority leader and majority whip so much that I got tired of going. Others may have the pleasure. But on this occasion I went.

The President said here we have this package, and he said he wanted to thank the Members of Congress for their input. I scratched my head. What input is he talking about? The Members of Congress haven't had any input. He said, "I have to hurry and go to speak." He called on the Speaker for a few words. He called on the distinguished Republican leader here, and he called upon the distinguished Democratic leader, and he called upon the distinguished Democratic leader in the House, and then he was finished. He didn't call on me. I was just invited to come as an ornament, I suppose, one that is not often seen by people at the White House.

In any event, the President started off to make that speech in St. Louis. I said, "Wait a minute, Mr. President. I heard you say something about this package, how you want this passed. I don't know what is in this package." Then he said to somebody down the line that may have been a Member of the House, may have been a Democratic leader there—I don't recall—maybe I do, but I don't need to say. Anyhow, when reference was made to this "thing," that we need to pass this thing in time for the first anniversary of September 11, I said, "I heard something said about this 'thing,' that we need to pass it in time for the first anniversary. I don't know what this 'thing' is."

I kind of dismissed it in my feeble way, in that manner, saying I didn't know what they are talking about, this thing, this package. Nobody explained this "package" to me down there. Nobody explained what this thing was down there. So I came back up to the Hill, knowing little more than I knew when I went down.

I say all that to say this: Here, today, we don't even have the "package" they had that day. We don't even have the "thing" they were talking about that day. Here is a brand new animal that has been brought in here—480-odd pages—and they are saying we have to pass it. The Senator and I and others are going to be asked to vote for cloture on this "thing"—the new thing.

My question is, does not the Senator feel it would be time well spent if this Senate did not invoke cloture tomorrow, or maybe the day after, or next week, but would it not be time well spent if the Senate took the necessary hours to carefully study what is in this new package that has been dropped on our desks not more than 6 hours ago? Is that a fair question?

Mr. LIEBERMAN. I thank the Senator from West Virginia. It is a fair question. I would like to answer it by continuing to outline some of the shortcomings in the substitute before us, and then offering a conclusion, and then I will yield to the Senator from Illinois, who has been waiting to be recognized.

I thank the Senator from West Virginia for his comments and his recollection of the history here.

Mr. BYRD. Also, the Senator has made some valuable contributions today by pointing out already some of the differences that he sees in the new language. So it seems to me—I will answer my own question—that we need to take more time than just tomorrow in invoking cloture on this bill. We owe it to ourselves and to the people.

We are creating a brand spanking new, big, massive Department. In this package, we are going to make a massive transfer of power to the executive branch. I plead to Senators that they not vote for cloture on this tomorrow. At least give us another week.

I thank the distinguished Senator for his patience, which is a customary characteristic of his. I value him, and I am going to listen with great interest to what he continues to have to say about this measure.

Mr. LIEBERMAN. I thank the distinguished Senator from West Virginia once again. I mentioned, when the Senator asked a question or two, about the omission from the bill of the program that our committee created, which would have authorized a COPS-like program for firefighters, which would be critically important to local fire departments all around America, who are already spending more money to get ready to protect their people from terrorist attack. I want to go on with a few more of what I call the bad news in the substitute. The substitute also grants—it's ironic that I come to this moment now, but it grants the Secretary of the Department of Homeland Security broad reorganization—I'm sure Senator BYRD will speak to this later in the day—with no need for congressional approval. The President would simply submit a reorganization plan to Congress within 60 days after enactment. No congressional approval would be required, as it would under both Gramm-Miller and our committee bill. Only notice.

The substitute also contains a sweeping liability protection provision that eliminates punitive damages and provides other caps and immunities from

liability for any products that the Secretary of the new Department of Homeland Security certifies as antiterrorism technologies.

This provision, if construed broadly, could do serious damage to individuals' rights. The Secretary must simply designate that a new technology is antiterrorism-related, and the exemption and the protections that are provided by this section of the bill go into effect.

Perhaps the most egregious flaw is the bill would cap liability at the limits of a seller's insurance, meaning people who allege they have been injured by one of these technologies certified by the Secretary can go either completely or partially uncompensated even if a seller who is liable has more than enough money to compensate them because the provision of this bill says the limits of liability are the limits of coverage of the seller's insurance.

Even if, as I read this provision, the seller has assets and the plaintiff has proved that his or her injuries are the result of negligence by the seller, the liability is capped at the limit of the insurance policy. That is a significant change in tort law.

At various times in this Senate, I have been quite active in advancing what is broadly called tort reform. This section some may describe as tort reform, but I think it goes way over the line in compromising the rights of individuals under our system of negligence and tort law.

Finally, the bill fails to include a package of vital information technology reforms initiated by Senator DURBIN, who will speak soon, and cosponsored by Senator THOMPSON and myself that were included in our committee-approved legislation. This amendment would dramatically improve the way data is managed in the new Department, and that will be central to the Department's effectiveness of protecting the security of the American people at home.

It would also improve the way data is managed throughout all agencies related to homeland security by allowing agencies to share and integrate their data swiftly and seamlessly. By failing to tackle information technology management, the substitute misses a huge opportunity to fix one of the most frustrating bureaucratic barriers to effective homeland security, and it will be a shame if this provision, which is non-controversial, is omitted from the substitute.

Finally, I wish to say briefly, because I spoke to this yesterday when Senator MCCAIN and I offered the amendment, I was deeply disappointed to find that the substitute bill fails to include an independent citizens commission to investigate the September 11 attacks. How can we learn from the past if we do not face up to our own failures honestly and directly and bravely? How can we reassure the American people we are taking every necessary step to protect them against terrorism if we

are unwilling to scrutinize every agency in our Federal system unflinchingly?

The answer, unfortunately, is we cannot. That is why the homeland security legislation our committee proposed was amended by the Senate by a resounding, overwhelming bipartisan vote of 90 to 8 to include a provision offered by Senator MCCAIN and me and others to create a bipartisan, non-political blue ribbon commission to investigate the Government's failures in all the years leading up to September 11.

In fact, the earlier iteration of the so-called Gramm-Miller substitute embraced, after the Senate spoke so resoundingly, that same idea for a bipartisan commission. Yet this substitute omits that proposal. That is outrageous and unacceptable. We should not accept it, and I can tell you that the families of the victims of September 11 do not and will not accept it.

Senator MCCAIN and I said yesterday, and I repeat today, that we, and I am sure many others on both sides of the aisle, will be persistent and steadfast and continue to search for and find every possible vehicle and method we can to get this independent commission to investigate September 11 adopted.

Let me now say by way of conclusion, I have tried to describe the good parts of this bill because, again, most of the proposals in the bill, the overall architecture of the new Department, and most of the specific provisions are taken from the bipartisan legislation that emerged from the Governmental Affairs Committee in the Senate, which I have been privileged to chair.

In fact, in some significant ways that I have outlined, this second iteration of the Gramm-Miller substitute has been improved to take in even more parts of our initial proposal. We have all learned together how to improve this legislation. That is all to the good.

I do disagree respectfully with my dear colleague from West Virginia because I believe there is an urgent necessity now to better organize our homeland defenses because the current disorganization was part of the cause of September 11. The continuing disorganization is dangerous. Yes, the various agencies are out there, but as I said at the beginning of my statement, everyone is in charge, therefore no one is in charge. We need to bring these agencies together. We need to eliminate overlap and save some money by doing that. We need to make them more efficient and, most of all, have a clear line of accountability.

There remains—and this really gnaws at me, and I know many Members of the Senate—a disconnection between too much of our intelligence community apparatus and law enforcement apparatus, including State and local law enforcement, and that disconnection means we do not have in one place all the information that can telegraph to this new agency that a terrorist at-

tack is coming and give us the time to stop it before the terrorists act. This agency will create such an intelligence division now. The urgent necessity for a new Department has to be weighed against the shortcomings and the late additions that I have described.

I cannot repeat the plain facts about our persistent vulnerabilities often enough. I have said them before and I will repeat them. The writer H.G. Wells once said:

Adapt or perish, now as ever, is nature's inexorable imperative.

Adapt or perish, and that is our challenge and our choice today. Adapt to the new terrorist threat or grow weaker and watch some of our fellow Americans perish.

Adapt to build on our strength and our ingenuity, or continue to have the American people live in fear.

Adapt or have your children grow up feeling that they are at the mercy of our terrorist enemies, no matter how strong we are in conventional military power, in economic strength, in cultural strength, in values, rather than seize the moment and control our own destiny through our strength and the organization of it.

A bill creating a Department of Homeland Security led by a strong and accountable Secretary will make sure that our domestic defense efforts do adapt to this new threat. It is really a source of continuing regret and frustration that the substitute comes to us now not only with compromises that have been made that are less than I would have liked—very few of us get exactly what we would like in legislation; that is the nature of the process—but that irrelevant and very troubling additions have been made to the legislation, and that is the balance that we are going to have to strike.

For my part, I have filed several amendments by the 1 o'clock deadline today to strike various parts of this substitute that I think are not only marginally relevant but, in some cases, totally irrelevant to the central task of homeland security, and not only do not add but subtract from the rights and freedom from fear of the American people.

It is nonetheless urgent to go forward and act on this measure. I, for one, do intend to vote for cloture to bring this debate to a conclusion, but I have attempted to fashion the amendments I have filed in a way that cloture will not prevent me from obtaining a vote in my attempt to strike some of the objectionable and unnecessary provisions of this substitute proposal.

"Adapt or perish, now as ever, is nature's inexorable imperative," those words of H.G. Wells speak to each one of us as we balance the good and bad in this substitute and decide how to vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I express my gratitude to the Senator from Connecticut, the chairman of the Governmental Affairs Committee. I do not

believe those following this debate, unless they have watched it for a long time, can appreciate the amount of time and effort that has been put into this bill by Senator LIEBERMAN and his staff. The record and history will demonstrate that before the President introduced a Department of Homeland Security, Senator LIEBERMAN not only introduced one, which I was proud to cosponsor, but passed it favorably from the Governmental Affairs Committee without the support of a single Republican Senator.

There was some confusion on the Republican side as to what the President's intentions were, but there was no confusion on the Democratic side. Senator LIEBERMAN believed, and still does, as I do, that a Department of Homeland Security is important for the defense of America against the threat of terrorism.

About 2 weeks after Senator LIEBERMAN's bill passed out of committee, the President introduced his own. Senator LIEBERMAN then addressed the issue again to make his bill and our bill conform more closely with the President's intentions and brought this matter to the floor. There was a controversy which ensued. It was an incredible controversy because it related to the rights of new employees in this Department. I use the word "new" advisedly because the 170,000 employees of the Department of Homeland Security are already working for the Federal Government.

With the passage of this legislation and its implementation, they will come under a new roof and a new title, but, frankly, they will be doing many of the same things they have done for years.

There was a question as to whether or not we would be able to protect these employees who had collective bargaining rights in the new Department. It was a contentious issue and one on which the White House and many Members of Congress disagreed.

Senator LIEBERMAN, again in good faith, tried to find some common ground. With the help of some of our colleagues, such as Senators Breaux and Landrieu of Louisiana, as well as many Republicans, we came up with compromise language weeks ago that could have raised this issue and moved it forward.

I say pointblank, there were Members of the Senate who did not want this issue resolved before the election. They did not want the Department of Homeland Security enacted before the election. They wanted to be able to campaign across America suggesting that the Democratic Senate had not passed this important legislation. As a result, they used every procedural trick in the book. They slowed down the process. They refused to have a vote and they got their way. We left for the election without the passage of this important legislation with the compromise language that had been prepared.

In many States and many congressional districts across the Nation, this

became a political issue. Sadly, it had an impact on the election far beyond its actual gravity because we could have passed this legislation, and sadly, we come today in an effort to try to bring this issue to a close in the hopes of doing it before we adjourn for the year, before the new Congress comes into session. I certainly hope we can achieve that.

The point has been made by Senator BYRD, Senator LIEBERMAN, and others that we were literally given a 484-page document, which passed the House of Representatives late last night, which creates this new Department of Homeland Security. There are many items in this document that are repetitive. Looking back to the President's original proposal and the proposal from the Governmental Affairs Committee, a lot of this is not new although many things are new. Many of us are trying to digest it.

I was paging through this bill as the debate was ensuing on the floor, picking out sections that raised questions in my own mind. If one looks around the Senate Chamber, they will see a 484-page bill on each desk. By my rough calculation, some 48,000 pages of documentation, many of which will never be read, are looked at by colleagues in the Senate. I do not say that being critical because, frankly, it is almost impossible for an individual Senator to monitor and evaluate every page of a bill. We rely on staff and people who we trust to get that done. But the fact is this just came over.

The reason I raise that issue is as soon as I finish this presentation, I am going to propose a second-degree amendment to Senator LIEBERMAN's amendment which relates to an issue that is completely ignored in this 484-page bill on the Department of Homeland Security.

To give a little background, on September 11, 2001, I was in a meeting in this building when word came that we had to evacuate because of the planes flying into the World Trade Center. With hundreds of others, I raced down the steps of the Capitol on to the lawn outside. We stood there, not knowing quite what to do next. I heard a sonic boom as we scrambled the fighter jets over Washington, DC, to prepare for further attack. We could see on the other side of the Capitol the black smoke billowing out of the Pentagon. Many of us who are entrusted with the responsibilities of serving in Congress were bewildered as to what had happened to our country and wondered what we could do, as individual Senators and Congressmen, to make it safer. I thought about it long and hard, and there is one area on which I decided to focus. I do not profess great expertise when it comes to first response in fighting terrorism, but the one omission I found that needed to be addressed in the administration of our Government was the information technology systems, the computer systems used by the Federal Government.

The reason I had been alerted to this problem was that in a hearing in the Senate Judiciary Committee a few weeks before September 11 we brought in the Federal Bureau of Investigation and, among other things, asked them about the state of their computers.

I am sorry to report to the Senate and those following this debate that the computer systems in the Federal Bureau of Investigation, the premier law enforcement agency in the United States of America, is disgraceful. It reflects a mentality within that agency that has resisted change, resisted new technology and, as a result, is currently operating with computer systems that small businesses in my hometown of Springfield, IL, would reject out of hand as archaic.

I dare say, we could bring in from anyplace in the United States a grade school student who is familiar with computers and they would find the FBI computer system laughable. What they are using to fight crime in the United States, to track down terrorism around the world, is outclassed by computers that can be purchased off the shelf at Sears, Best Buy, and Radio Shack. As hard as that may be to believe, it is a fact.

I also might add that we came to learn that the computer systems of the major agencies which we are depending on to protect America cannot communicate with one another. Would any of my colleagues want to be the CEO of a corporation with a variety of different departments and offices around America that had computer systems that could not communicate with each other? That is a fact today in the Federal Government. It is a fact of life, and it is a disgrace. This bill which we are considering to establish the Department of Homeland Security virtually ignores this problem.

How could we say to the American people, we are going to create a Department to make them and their family feel safer if we do not address the most fundamental issue of the exchange of information? In my concern over this issue, I decided to try to focus on it. I said this is the one thing I will work on. There are 535 Members of Congress. Everyone has a different agenda. I am going to try to carve out this niche and work on upgrading the computer systems in the FBI and creating what they call interoperability, the power of computers in different Federal agencies to communicate with one another. I have worked on it for over a year. I came up with some ideas based on historical experience.

I looked back in history because others have written of this challenge. They make reference to the Manhattan Project. For those who are not students of history, that was in 1939, before World War II. Before the attack on Pearl Harbor, our scientists in America discovered nuclear fission. It was a breakthrough. They knew they had something with great potential with the nuclear fission process. They were

not quite sure what they could do with it on a positive or negative basis.

Then President Franklin Roosevelt created the uranium committee to explore the various scientific things that could be done with nuclear fission and report back. The committee, like most, did some things but did not do them very quickly and did not produce much.

Then came December 7, 1941. The Japanese attacked Pearl Harbor. Within 2 days, President Roosevelt came before a joint session of Congress and asked for a resolution of war against the empire of Japan and its allies, Germany and Italy, and America was truly at war.

In August of 1942, President Roosevelt was reminded about this uranium committee. He made a historic decision. He put them out of business. He said, we want to create a new project under the Army Corps of Engineers. We are going to, in this new project, try to take on a much bigger challenge. In charge of this project was an individual, a commanding officer named General Leslie R. Grove. Under what was called the Manhattan Project, we said to General Grove, you have the responsibility to gather together in the Manhattan Project the scientific, industrial, and military capability of America so that we can take nuclear fission and develop weapons that could win World War II.

General Grove is an interesting figure. From what I have read, I understand he was a powerful individual. In the course of several years, 4 years, he spent \$2 billion. This is the early 1940s. In today's dollars, that would be \$20 billion on the Manhattan Project. He developed four bombs, which were detonated over Japan, which brought an end to World War II. The Manhattan Project was successful.

Think about that when we talk about our own computer capability. I believe we need a Manhattan Project when it comes to the computer information technology of our Federal Government. I believe we need to empower a person and an agency to not only look to bring the most modern technology to each agency but to determine how they work together. That is what is missing.

The Department of Homeland Security bill, 484 pages long, does not even envision this as a challenge to be met. How, then, can we offer security to this country? How, then, can we use the best technology and scientific resources to make this a safer nation?

Currently, each of the agencies—the Coast Guard, the Customs Service, FEMA, INS, the Secret Service, the new Transportation Security Administration, and others—are to be coordinated under this Homeland Security Department. They each operate with their own information technology system and with their own budget. Needless to say, they do not communicate with outside agencies as the FBI or the CIA. These agencies already spend about \$2 billion a year on information

technology. The President is asking for \$37.5 billion for a new Department, which is being gathered from current budgets.

Let me illustrate for a moment an example of why this challenge is important. A few hours ago, we considered port security—I voted for it; 95 Senators did—to try to make our ports safer in the United States. Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes. What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

As currently planned, much of this information will end up in separate systems—some of them new and expensive. One of those, a \$1.3 billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Immigration and Naturalization Service. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The new Transportation Security Administration also will collect and hold relevant information in its systems. Think of how many different agencies I have just mentioned are concerned about the one ship that we fear may be bringing the wrong people with the wrong cargo to threaten the United States.

Now reflect on this: None of these information technology systems are designed to communicate with one another, none of them. How in the world can we assure the American people of their safety when we are dealing with such archaic standards, when we are ignoring the most basic requirement—that these agencies work together and share information? This bill, 484 pages in length, ignores this challenge. We cannot ignore this challenge. Frankly, we have to respond because these divergent systems will ultimately need to be linked to the Homeland Security Department. We need to make certain there is a seamless interconnected system.

We have to ask key questions about the best way to ensure that the homeland security components communicate and share information with one another. By whom, when, how, and at what cost can the systems be linked. In addition, it is equally important to establish appropriate links between the Homeland Security Department and other agencies, particularly the intel-

ligence community and law enforcement agencies.

Think about the ship coming into Lake Michigan from a foreign port and all of the questions that I just proposed. Would you not want to make certain that the FBI and the CIA had access to that information? In addition, the National Security Agency, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information. These links are needed because the Homeland Security Department will be inordinately dependent upon full and timely information exchange.

We cannot put a soldier or policeman on every corner in America and make this a safe nation. But what we can do is gather important information and share it so that it can be evaluated and coordinated and acted upon. That cannot happen with this bill as it currently stands before the Senate. This bill does not even envision that as a goal to be met. The status quo, which unfortunately this bill in many ways preserves, is not adequate to do the job.

At a June 26 Governmental Affairs Committee meeting focusing on the Department of Homeland Security in the intelligence community, I introduced the concept of ensuring interoperability, the communication of different computer systems in the Federal Government. I talked about the history of the Manhattan Project. My premise was if we are going to combine the intelligence resources and gathering of the Department of Defense, the Department of State, the Department of Justice, and the new Department of Homeland Security, would it not make common sense to establish a Manhattan Project when it comes to information technologies so all these agencies can communicate with one another, share information, and try to make the job more effective?

We have all this discussion on reorganization, but we are not facing the basic challenge. Given the current state of affairs in the Federal information technology systems, it is obvious we need to address the information technology issues that are raised as part of the new Manhattan Project.

Let me tell you about some of the current problems and challenges we face, if you wonder how we are going to make America safer against the threats of terrorism. Six years ago the U.S. Congress mandated the Immigration and Naturalization Service to establish a database to record visa holders exiting the United States. Understand the process. You are a foreign national and you want to come to the United States for any number of reasons—as a student, as a visitor, for some other reason. You go through the Immigration and Naturalization Service and a visa is offered to you through our consulates overseas. That is recorded. That is part of their database.

We then said to the INS we want you to make a record of those leaving the

United States so we have, at any given time, an inventory of people who are visa holders in our country. It makes sense. If you don't do that, frankly, you are turning loose visa holders with no accountability as to whether they overstayed the legally permitted period for their visa or something else.

Six years ago we said to the INS, come up with a database that will record the exit dates of visa holders. We received a report a few months ago from the Director General that, despite 6 years of effort, the INS is unable and incapable of creating this database. Think about that for a second, about making America safer, about visa holders and people coming into this country. We have been unable in a 6-year period of time to establish that database.

Let me give you one other illustration. Both the Federal Bureau of Investigation and the Immigration and Naturalization Service collect fingerprints. They, of course, do that in the course of law enforcement, in the course of people visiting the United States. Three years ago we said to these two agencies, the INS and the FBI, combine the fingerprint database. We want to know if you have a person who is a criminal suspect who also may be out of status with the Immigration and Naturalization Service. We want to put that information together into one single database of fingerprints available to law enforcement in the United States. Three years later, still it has not been done.

As we look at the challenges we face, it is one thing to move the boxes around on the chart, to talk about a new Department of Homeland Security with 170,000 employees, but it is quite another to make certain that when these employees sit down at their desks in their offices, they have computer capability to literally protect America. This bill does not address that.

This is our Department of Homeland Security. It is being given to us by the House, which will soon adjourn without any effort to address this challenge.

An article in the July 27 edition of *Fortune* magazine also ascribes such a styling to the concept, pointing out:

There is an abundance of breathtakingly versatile technology available to counter the menace of terrorist attacks at home. Now for the bad news: Computers are only as smart as the bureaucrats who use them.

This is *Fortune* magazine speaking.

It may require a Manhattan Project of social engineering to induce agencies that have traditionally viewed each other mostly as rivals for budget dollars to reach out and hold hands.

At the hearing which we held before the Government Affairs Committee, I asked several of our witnesses to comment. One of the witnesses was GEN Hughes, LTG Patrick Hughes, U.S. Army, retired, former director of the Defense Intelligence Agency, 1996 to 1999. I talked to him about what I have just said in my opening remarks here.

Here is what he said—first replying. General Hughes said to me:

First, your characterization of this problem is, in my view, right, but it is not about technology. The technology to do the things that you are talking about wanting to do is present and available. It is about parochial interests, managing and constructing the technology for their own purposes, as opposed to the synergistic, larger effect of mission support across the government.

This man, who for 3 years had the responsibility in the Defense Intelligence Agency, knows what the problem is. He knows, unfortunately, that it is a problem that is not addressed by this Department of Homeland Security proposal. The amendment which I propose to create a Manhattan Project through the Department of Management and Budget had the bipartisan cosponsorship of Senator LIEBERMAN, who was on the floor earlier, as well as Senator THOMPSON, who is here. It was added to the bill by unanimous consent of all members of committee. Section 171 of the committee-approved legislation requires the Director of the Office of Management and Budget to develop a comprehensive enterprise architecture for information systems of agencies related to homeland security.

It calls for designating a key official at OMB, approved by the President, whose primary responsibility is to carry out the duties of the Director. This is our General Grove. This would be our Manhattan Project. The President would have the last word on this person and the responsibilities he would have to execute. OMB must make sure agencies implement the plan and regularly submit status and progress reports to Congress, as they should.

The enterprise architecture and resulting systems must be designed so they can achieve interoperability between and among Federal agencies responsible for homeland security and homeland defense, whether inside or adjunct to the new Department.

These systems must be capable of quick deployment. These must be readily upgraded with improved technologies. Effective security measures must be maintained as well.

The OMB director and Secretary of the new Department shall also facilitate interoperability between information systems of Federal, State, and local agencies responsible for homeland defense. This is a common complaint. I have heard it from the City of Chicago and other agencies across my home State, that the whole question of homeland security has to work its way down to the first responders at the local level, as does the information. This bill, sadly, does not address that because it does not include the amendment which I proposed in committee.

Enterprise architectures require systematically thinking through the relationship between operations and underlying information technologies. Used increasingly by industry and some governments, they can reduce redundancies, modernize operations, and improve program performance.

Historically, Federal agencies have developed information systems in what you call, euphemistically, parochial stovepipes with little or no thought about communication with other agencies. Agencies vital to homeland security are currently plagued by outdated technology, poor information security, and, unfortunately, not the necessary motivation to make the positive change.

An article appearing in this month's issue of *Government Executive* magazine captured the problem. Let me give you just a few words from that article, if I might. This is from *Government Executive*, September, 2002:

When a computer mistakes a 70-year-old black woman for a 28-year-old white man who is a triple murder suspect on the FBI's terrorist group list, something is wrong with the computer or the information inside it. The terrorist list on which this person's name appeared is just one of more than 25 maintained by dozens of law enforcement, intelligence and Defense Department agencies. Those lists are not integrated and often are not shared. We must build a system of systems that can provide the right information at all the right times. Information will be shared horizontally, across each level of government, and vertically among Federal, State, and local government, private industry, and citizens. Electronically tying together the more than 20 agencies to be merged into a new Department will harness their security capabilities, thereby making America safer.

It goes on to quote John Koskinin. He was the Federal Y2K chief brought to avert what we thought might be a computer crisis. He was asked to assess the challenge of bringing them together. I am for bringing them together. Here is a man who worked to analyze all the computers of the Federal Government and what he says is, I am afraid, chilling. I quote:

You'll never get your arms around it.

He believes placing all the security agency systems under one roof and building more systems will not make agencies communicate. He understands the challenge we face. This bill does not face that challenge and that, unfortunately, is a terrible shortcoming.

Interoperable information systems would permit efficient sharing of data and better communication. I have discussed this with a man I respect very much. Tom Ridge and I came to Congress in 1982, and we served many years together in the House. I was one who praised the President for choosing Governor Ridge of Pennsylvania as the first person to direct our homeland security operation. I called him on this issue. I explained to him what it was all about. Tom said to me, in his own words, he believed that what I am proposing here in this amendment would be a "force multiplier." It would enhance our technology, enhance our ability to protect America.

This substitute which we have before us does not include that force multiplier. This substitute, unfortunately, falls short of utilizing the resources we have most effectively.

It scratches the surface by tasking an under secretary with ensuring informational systems compatibility. Yet there is no corresponding duty outside of this Department of Homeland Security with any other agency or any other director in government.

If there is a coordination of information technology within the Department of Homeland Security, there is no premise or promise that we are going to have this agency communicate with the CIA, with the FBI, with the Department of Defense, with the Department of State, and without that interoperability, we are missing this force multiplier. The amendment would make sense and fill the gap. It would give an overarching job to OMB for homeland security enterprise architectures.

I think we can all agree there is no one single magic silver bullet to protect America. But we have to strengthen our security. We have to use the information we collect and use it effectively.

When you take a look at the systems, we have to consider a recent challenge. On October 23 of this year—a few weeks ago—GovExec.com, an online news service, reported that the FBI ran into serious shortcomings in its effort to capture the Washington-area snipers. A system known as “Rapid Start” was set up at the investigation command center in Rockville, MD. Leads called in to the center and to hotlines were manually entered into a database which organized the information to try to find the snipers. They assigned investigators to follow up. According to the news article, Rapid Start—the computer system at the FBI—was never designed to handle the large volume of information and the 67,000 calls they received. The system was overwhelmed. What is even more compelling is that Rapid Start was created by the FBI as a way to avoid working with the Federal Bureau of Investigation’s existing computer system, the “Automated Case Support System.” The agents of the FBI had already determined the existing computer capability at the FBI could not handle the investigation to find two snipers in the Washington, DC area. The FBI’s antiquated technology systems don’t allow its agents to share information among field offices.

Let me give an illustration. The September 11 disaster occurred. Within a few hours, we collected photographs of the 19 suspected terrorists who we believed to be on those airplanes. The FBI, when they collected these photographs, communicated that information and these photos to their field offices.

How would you do that if you were at a home computer and you wanted to send a photograph to your grandson or your granddaughter? Virtually every computer system that is worth its salt has the capacity to transmit photographs. But not the computer system of the Federal Bureau of Investigation. They had to FedEx the photos of the

suspects to their field offices because the computer system couldn’t transmit photographs.

Think about that. Would you buy a computer system if you were a law enforcement agency that couldn’t do that? That is a fact today.

The Automated Case Support System that Rapid Start was built to circumvent was blamed for the loss of 4,000 documents in the prosecution of Timothy McVeigh for the Oklahoma City bombing.

According to a recent article, only in recent months did the FBI start a computer system through a project known as Trilogy. It is starting to replace obsolete desktops. I have been talking about this for a long time. This committee has tried to address it. We did address it with a bipartisan amendment agreed to by Senator LIEBERMAN, Senator THOMPSON, Republicans and Democrats in the committee. We put it in the bill. But it is not in this bill that has come over to us from the House of Representatives.

What I am proposing to my colleagues on the Senate floor is this: Please let us depoliticize this issue. Why in the world should this become a partisan matter? The computers of this government are going to serve all of the citizens. No one is going to be able to have bragging rights—Democrats or Republicans, or anyone of any other political stripe. It is a question of whether we are going to put in place the resources and tools and weapons we need to fight terrorism.

The amendment which I am about to propose as a second-degree amendment would do just that. It would take the exact language from the Governmental Affairs Committee on a bipartisan basis, put it in this bill, and give us a chance to establish interoperability and enterprise architecture across the Federal Government.

How in the world can we pass this legislation without doing that? How can we leave Washington and say to America, “Sleep safely. You know the terrorist threats are there. We are doing everything we can”? We are not.

This 484-page bill fails in one of the most basic challenges. It does not challenge us to establish the very best in computer technology for the Federal Government. The fact of the matter is our current system doesn’t even measure up to the most basic standards of requirements of computers and computer basics across America. Shouldn’t we bring to the American people the very best in computer technology to protect our Nation, our families, our children? That, I think, is what is at stake here.

I implore my colleagues. I understand what is going on here. We were told the House will leave town, we will get this 484-page bill, don’t change a period, a comma, or a single word—no amendments, take it or leave it—and we are going home. That isn’t good. That really isn’t good.

I think the Senate has a responsibility. We can identify the glaring

omissions from this bill—and one that ultimately has to be corrected. But in the months before we return, while this problem still festers and looms, we are not going to be protecting America as much as we should. We will not be providing the American people the kind of defense against terrorism which they deserve. We will not be using the best resources of our government and technology to make America safer.

I am hoping my colleagues will consider this amendment and give it the same type of bipartisan approval they did in the Governmental Affairs Committee.

AMENDMENT NO. 4906 TO AMENDMENT NO. 4902

I would like to offer the amendment which I filed with the clerk as a second-degree amendment to the pending Lieberman amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 4906 to amendment No. 4902.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the development of a comprehensive enterprise architecture for information systems to achieve interoperability within and between agencies with responsibility for homeland security, and for other purposes)

At the appropriate place, insert the following:

SEC. . . INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) DEFINITION.—In this section, the term “enterprise architecture”—

- (1) means—
 - (A) a strategic information asset base, which defines the mission;
 - (B) the information necessary to perform the mission;
 - (C) the technologies necessary to perform the mission; and
 - (D) the transitional processes for implementing new technologies in response to changing mission needs; and
- (2) includes—
 - (A) a baseline architecture;
 - (B) a target architecture; and
 - (C) a sequencing plan.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

- (1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;
- (2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;
- (3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and
- (4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

- (A) each implementation progress report required under this Act; and
- (B) each biennial report required under this Act.

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) CONTENT.—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

- (1) rapid deployment;
- (2) a highly secure environment, providing data access only to authorized users; and
- (3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

Mr. DURBIN. Madam President, let me clarify one point. Recent news stories indicate the former national security adviser John Poindexter is working at the Department of Defense to develop a plan to shift private database research in fear that it might be useful for intelligence purposes. That proposal raises some privacy questions, I concede. Another mistaken news story suggests that homeland security will facilitate that kind of investigation into private databases.

My proposal has nothing to do with this DOD plan. My proposal focuses only on making sure the Federal Government computer databases can communicate with one another when necessary to make certain, for example, that the INS and the FBI can share internal information—not information on private databases—to help protect against terrorist risk.

I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. DASCHLE. Madam President, one of the privileges accorded to the majority leader is the opportunity to welcome and to introduce our fellow legislators from the European Parliament. This is a tradition that began in 1972, and it has continued every year since.

Earlier this year in July, we welcomed the President of the European Parliament to the Senate. Today, I am pleased to welcome another 16 of his colleagues representing countries from across that great continent. As I said when Mr. Cox visited in July, this tradition is especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are certainly connected—connected in beliefs and in the rule of law, and a commitment to the betterment of the people we serve and the world we share.

Today's visit has added significance, coming as it does at a period of heightened concern across Europe about the potential new terrorist attacks.

So we reiterate today our strong determination to stand together, united by our shared values and by our commitment to stand, as we have for now so long, on issues related to commerce, on issues related to trade, and on issues related to war.

I ask unanimous consent that the names of our colleagues from the European Parliament be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11-17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO

(List of participants (16) in protocol order)

	Group	Country
Mr. Jim Nicholson, Chair	PPE-DE	United Kingdom.

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11-17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO—Continued

(List of participants (16) in protocol order)

	Group	Country
Mr. Bastiaan Belder, 1st Vice-Chair	EDD	Netherlands.
Mr. Harlem Desir, 2nd Vic-Chair	PSE	France.
Mr. Renzo Imbeni	PSE	Italy.
Mr. José Pacheco Pereira	PPE-DE	Portugal.
Mr. Jorge Salvador Hernandez Mollar	PPE-DE	Spain.
Ms. Erika Mann	PSE	Germany.
Mr. Jas Gawronski	PPE-DE	Italy.
Ms. Imelda Mary Read	PSE	United Kingdom.
Mr. Dirk Sterckx	ELDR	Belgium.
Ms. Nuala Ahern	Verts/ALE	Ireland.
Mr. Peter William Skinner	PSE	United Kingdom.
Ms. Arlene McCarthy	PSE	United Kingdom.
Mr. Brian Crowley	UEN	Ireland.
Mr. Marco Cappato	NI	Italy.
Ms. Piia-Noora Kauppi	PPE-DE	Finland.

PPE-DE Group of the European People's Party (Christian Democrats) and European Democrats.

PSE Group of the Party of European Socialists.

ELDR Group of the European Liberal, Democrat and Reform Party.

Verts/ALE Group of the Greens/European Free Alliance.

GUE/NGL Confederal Group of the European United Left/Nordic Green Left.

UEN Union for Europe of the Nations Group.

EDD Group for a Europe of Democracies and Diversities.

NI Non-attached.

Mr. DASCHLE. I would also like to notify Senators that our colleagues from the European Parliament are available now to meet on the floor. I welcome them. I am delighted they are here.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

The Chair recognizes the majority leader.

Mr. DASCHLE. Mr. President, I reiterate again our thanks to our colleagues for their willingness to join us on the Senate floor. It is a real pleasure for us to have the opportunity to talk with them. We wish them well in their travels within the United States.

We again reiterate how welcome they are and how hopeful we are that we can continue to maintain the dialog, the friendship, and the partnership that we have as countries interested in a mutual goal.

We thank them for being here.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. DASCHLE. Madam President, I now ask that we return to the regular order.

The PRESIDING OFFICER (Ms. CANTWELL). Regular order.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have sought recognition to comment on the bill generally, and to discuss three amendments which I have filed.

I believe it is vitally important that the Senate conclude action on homeland security at the earliest possible date. And I believe, regrettably, but importantly, that we should accept the

bill which was passed by the House of Representatives because if we do not, we will not have a bill this year.

The House has passed a homeland security bill and has given notice that it intends to depart. This has left the Senate with the choice of take it or leave it. I believe that the national interest and the public welfare requires that we take it, even though I believe we would have a much better bill if it were to be amended in certain respects.

I have filed three amendments which I think would vastly improve the House bill.

If these amendments are offered and accepted, then there will have to be a conference. The prospects for having a conference, with the House of Representatives having departed, is remote, and the likelihood of passing this bill this year would be virtually nonexistent.

It is with reluctance that I say these amendments will not be offered, but these are amendments which I intend to pursue next year. In coming to this conclusion not to offer these amendments, I have done so at the request of President Bush who is very anxious that this legislation be enacted and sent to his desk so that the country may proceed to reorganize the Government to provide for homeland security.

Earlier today, I talked to President Bush, I talked to Vice President CHENEY, and I talked to Governor Ridge about these three amendments. The President urged me not to offer these amendments so that this legislation could be passed. The President stated that he would be willing to sit down and discuss the concerns I have and the amendments I have proposed, with a view to possible action on them next year. He is obviously not committing to accept these amendments until he has had a chance to review them, but did say there would be full review by the President. The President said that. And the Vice President also said he would review the matters.

I talked at length to Governor Ridge, to whom I have talked on many occasions. These are amendments which I have had an opportunity to discuss with the President in the past, in meetings in the White House. As soon as the homeland security bill was introduced, he brought in a number of Members who were interested. I have had a chance to discuss the amendments with him at several leadership meetings, and when he traveled to Pennsylvania recently to campaign, I had a chance to discuss the matter with him.

One of the amendments I have filed, denominated amendment No. 4920, provides that the Secretary of Homeland Defense, subject to the disapproval of the President, would have the authority to direct the agencies to provide intelligence information, analysis of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

This language is important because it would empower the Secretary of

Homeland Defense to "direct." That is very different from asking. My experience as chairman of the Intelligence Committee in the 104th Congress convinced me about the turf battles which go on among the various intelligence agencies. Those turf battles are endemic and epidemic.

In chairing the Judiciary Committee Subcommittee on Department of Justice Oversight, I have seen the same turf battles going on in the FBI and know of the turf battles which have gone on in other intelligence agencies.

I believe that had all of the dots been put on a big screen prior to September 11 of 2001, 9/11 could have been prevented. We knew the FBI had an extensive report coming out of Phoenix about a suspicious individual taking flight training. The man had a big picture of Osama bin Laden in his apartment. That FBI memorandum was buried, and never reached appropriate personnel at headquarters.

We know the Central Intelligence Agency had information on two al-Qaida men in Kuala Lumpur. That information was not transmitted to the FBI or the Immigration and Naturalization Service. Those al-Qaida terrorists got into the United States and piloted one of the suicide bombers on 9/11.

We know the computer of Zacharias Moussaoui had a tremendous amount of useful information in his possession which was not obtained because the FBI did not use the proper standard applying for a search warrant under the Foreign Intelligence Surveillance Act. We know that a Pakistani al-Qaida member by the name of Murad had stated in 1995 that al-Qaida planned to have airplanes loaded with explosives fly into the CIA. We know the National Security Agency had a warning on September 10, 2001, about something to happen the next day, and it was not translated until September 12. I believe there was a veritable blueprint, had all of these dots been on the same screen and put together.

When FBI Director Mueller came to testify before the Judiciary Committee in early June of this year and was questioned about the Foreign Intelligence Surveillance Act and I saw the entire picture, I stated at that hearing that I thought there was a veritable blueprint.

I do not agree with CIA Director George Tenet that another 9/11 is imminent. The CIA Director testified to that at a public hearing before the Intelligence Committee a few weeks ago. Perhaps it is an effort to inoculate the CIA so that if there is an attack, somebody can say: Well, after all, we are not surprised.

But I do not believe in the defeatist attitude that we have to sustain another attack. I believe our intelligence services are capable, if they are under one unified direction and they have one screen and put all of the dots on one board, that we have an excellent chance of preventing another September 11.

While it is important to have antidotes for anthrax and to deal with smallpox and to deal with the problems of bacteriological warfare or chemical warfare, that if we are attacked, most of the damage will already have occurred. So a very sharp focus of our attention should be to prevent another 9/11.

To accomplish that, I believe the current bill is not the best of the bills. It does bring all of the analysis agencies under one umbrella, but it does not give the Secretary of Homeland Defense the authority to direct them. If the Secretary of Homeland Defense does not have the authority to direct the head of the CIA or to direct the head of the FBI or to direct the head of the Defense Intelligence Agency or to direct the head of the National Security Agency or the other intelligence agencies, then we are likely to have the same old turf battles which we have had up until now.

That is why I believe this amendment, which I had wanted to offer and have discussed on this floor on many occasions, would vastly improve this bill.

But we all know that the better is often the enemy of the good. I believe it is of sufficient importance to move this bill ahead now that I am prepared to wait until next year and to accept the offer the President has made—and the Vice President and Governor Ridge—to sit down and go over the concerns I have expressed and these amendments, if we can get administration support on these amendments.

There has been enormous controversy on the issue of labor-management relations. This was the subject of extensive debate when this bill was on the floor from September 3 until October 4. This Senator engaged in extensive discussions with Senator LIEBERMAN, the manager of the bill for the Democrats, and Senator THOMPSON, the manager of the bill for the Republicans, as to what the Nelson-Chafee-Breaux amendment meant. That amendment had incorporated the essence of what Representative CONNIE MORELLA had put in with two paragraphs, and the issue was whether or not those two paragraphs were in place of, or in addition to, the paragraphs of existing law.

The paragraphs of existing law, under section 7103 of title 5, provide that there can be a national security waiver of collective bargaining, that the President can make a determination to deny collective bargaining coverage for national security reasons. When the colloquy was entered into with the Senator from Connecticut, Mr. LIEBERMAN, he agreed that the two paragraphs of the Nelson amendment were in addition to and not in place of existing law, and these two additional paragraphs made it a little more difficult for the President to exercise the national security waiver; but still the national security waiver could have been exercised and there could have

been harmony with the employees had that change been made.

Then, with respect to the provisions for personnel flexibility, the amendment I have submitted as No. 4921 would have taken the format for denying collective bargaining coverage with the national security determination and added the additional two paragraphs which, again, would have provided for harmony, meeting the concerns that had been expressed by governmental employees.

It is my hope that we will yet have an opportunity next year, in consultation with the President, the Vice President, and Governor Ridge, to have consideration of this amendment and have the law changed next year.

In addition, I have filed amendment No. 4936, which contains provisions for a Presidential override but has, as a compensating factor, provisions for the utilization of the Federal Services Impasse Panel, and that again would bring harmony with the concerns and objections that have been raised by Federal employees.

So, in essence, what I am proposing to do is not to offer these amendments, Nos. 4920, 4921, and 4936; but I do believe they are important amendments, and I intend to press them in the 108th Congress. To repeat, I have discussed these issues directly with the President, who asked that I not put these amendments forward in the interest of expediting passage of this bill and avoiding a possibility of having a Senate bill different from the House bill, which would then require a conference and, most probably, preclude the enactment of legislation on homeland security this year.

There will be a number of amendments offered. There are already amendments that are pending, and some of them, frankly, I agree with. But I believe that the better is the enemy of the good here, and it is very much in the national interest for national security that this Senate move ahead and pass a bill.

I do not like the fact that the House enacts passage of a bill, sends it here, and then leaves town, which is just an example of legislative blackmail. But that is where we are. It is not an unusual occurrence. Although we had a full month to debate these issues and to vote on them, that never occurred, notwithstanding the fact that this Senator and others were on the floor. And I made these arguments about the necessity for a Secretary of Homeland Defense to have the authority to direct, and I made the arguments that when you added the two paragraphs of the so-called Morella amendment to the existing language, the President's national security waiver remained intact.

At this point, that is all history. Now we are faced with the alternatives of either accepting the House bill and moving on and getting this Department established, so that we can make our maximum effort to protect the

American people, or to offer amendments and try to get them passed and improve the bill, which will lead to the conclusion of no legislation this year. So, with great reluctance, I have acceded to the requests of the administration. I will not offer these amendments.

I exhort and urge my colleagues not to change the bill, no matter how good their amendments may be, but to take this bill; and if there are matters that ought to be changed, let's work on them next year. Before we leave town—hopefully this week, but in any event not later than next week—let's put the legislation in a posture where it can be sent to the President, be signed and become law, to do our utmost to protect the American people and to secure our homeland from another terrorist attack.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, I thank the Senator from Pennsylvania for his statesmanlike approach to this matter. He is absolutely right that the way we are proceeding is not a usual occurrence. It is also a fact, however, that these are not usual times. I agree with him that it is vitally important we move forward. We have had a month or so of discussion and debate on this bill. We have a small window of opportunity now to do what we all know we need to do, and that is to go ahead and pass a homeland security bill. The Senator's actions that he has just taken will help that along immeasurably, and I thank him for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Madam President, I ask unanimous consent that I may speak up to 15 minutes on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Madam President, I rise today to thank my colleagues in the House and in the Senate, as well as the leaders in the White House, who have worked very well together to arrive at a reasonable plan to allow this President the opportunity to properly establish a Department of Homeland Security and meet this threat before the 107th Congress adjourns.

I especially want to thank Senators FRED THOMPSON and PHIL GRAMM for their tireless work and their dedication, commitment and, as always, their very thoughtful leadership. Both of these gentlemen, Senator THOMPSON of Tennessee and Senator GRAMM of Texas, are concluding their distinguished service in the Senate, and what a perfect way to do it, with such a strong finishing kick in their sterling record of leadership.

I believe the Department of Homeland Security proposal that we are now considering—the same one passed by the House last evening—preserves the essential functions outlined in the

President's plan while also addressing several changes that will help ensure successful implementation.

Specifically, the new provisions clarify the roles and responsibilities of the Department and help form a top-notch workforce within the civil service framework. They also enhance research and development opportunities and protect civil liberties.

I am hopeful that my colleagues will come together and support this proposal as soon as possible. Let's get the job done. The job needs to get done without any further dilatory or political delays. Since September 11 of 2001, we have all seen the need to improve our homeland security. This matter has been debated for many months. As Senator SPECTER said—I will paraphrase him—as far as I am concerned, it has been fine-tuned to near perfection. It may not be 100 percent of what everybody wants, but 98 or 99 percent is pretty good work.

Madam President, as you may know, I am the chairman of the Republican high-tech task force, and I am very pleased to see that this proposal highlights the vital role technology and innovation play in our Nation's war to protect the people of our homeland from a variety of permutations of terrorism and terrorist threats.

This measure recognizes the importance of information technology and research and development in achieving the most effective homeland security.

There has been a lot of talk and a lot of focus on flow charts that talk about which department is here and which box goes here and this subagency there. All those flow charts are very interesting and relatively important, but most important is the flow of information, the ability of various Federal agencies to analyze the volumes of information and bits and facts and details—analyze all those thousands or tens of thousands of bits of information, analyze it, flag it, then act on it and, in some cases, also share that information within that Federal agency and also other Federal agencies, as well as State and local law enforcement agencies that also have a need to know that information.

New technologies are being developed every day that can help save lives and improve the ability of our Government to fight and respond to terrorist threats. It is incumbent upon us as elected leaders to ensure our team, in fighting terrorism, is equipped with the best available and the most advanced technology.

I have consistently maintained the Federal Government should and, indeed, must procure, adopt, and use these innovative technologies in an efficient and flexible manner in addressing this country's defense and homeland security needs.

I wish to briefly touch on a few of the important provisions I have worked on with representatives from the technology community and my colleagues in the Senate, such as Senators

BENNETT, WARNER, and WYDEN, which, I am happy to say, are addressed in this legislation. Again, I thank Senator THOMPSON and Senator GRAMM and their staffs for listening—listening to me and listening to my staff as well, and in particular I thank Frank Cavaliere—to these ideas in addressing these important provisions.

Let me highlight a few of the more salient provisions.

First, this proposal protects companies developing advanced technologies that help detect and prevent terrorism from assuming unlimited liabilities for claims arising from a terrorist strike. This provision helps ensure that effective antiterrorism technologies that meet stringent requirements are commercially available.

The reality is that without these safeguards, the threat of unlimited liability prevents leading technology companies from providing their best products to protect American citizens, American businesses, and governmental agencies.

The liability protections in this legislation are responsible to the Government, the industry, and also, very importantly, to the American taxpayer. I thank my colleague from Virginia, Senator WARNER, for all his assistance, experience, and constructive leadership in this important aspect of the bill.

Second, along with Senator BOB BENNETT of Utah, I am very pleased to see this legislation remove some of the legal barriers to information sharing between private industry and the Government. The threat to this country's critical information systems is extraordinary and this bill establishes procedures that encourage private industry to share infrastructure vulnerability information with the Government. The dialog between the Government and the private sector will ultimately help identify and correct weaknesses in our Nation's critical infrastructure while not compromising any of the provisions or protections provided under the Freedom of Information Act in other government agencies.

Information-sharing protections are particularly important in the area of cyber-security and threats. Taking preemptive measures to disclose vulnerabilities with the Government will help both the private and public sectors develop strategies to combat the numerous and constantly evolving cyber attacks threatening our Nation's critical infrastructure.

I encourage industry, law enforcement, and Federal officials to continue to work to build trust-based relationships and processes that will foster more information-sharing reporting.

Removing legal obstacles—which is what this bill does, which is very good—removing legal barriers to information sharing is very important and essential, but so is building trust.

A national forum on combating e-crime and cyber-terrorism was held at the Computer Sciences Corporation offices in Northern Virginia just 2 weeks

ago by the Information Technology Association of America and the U.S. Attorney's Office for the Eastern District of Virginia where they brought together law enforcement and private sector leaders from all around the country to address some of the remaining obstacles to improving cooperation. These are the types of efforts I encourage, and I am hopeful this legislation will continue to promote.

Also included in the Thompson-Gramm amendment is the Federal Information Security Management Act, or FISMA, which will strengthen and protect the Federal Government's information and communications networks. FISMA establishes guidelines that are performance based. Let me repeat that. The guidelines are performance based so they can quickly adapt and respond to the fast-changing cyber-security threats. Strengthening the Government's information security is a vital component and piece of the homeland security puzzle. FISMA will foster accountability and make sure that every agency and department in our Federal Government prioritizes information security and promotes the use of commercially available technologies while avoiding technology-specific or product-specific government-wide security standards.

This is vitally important in making sure we get procurement that is good for the taxpayers and allowing all those who have great ideas to offer their programs, their systems, their products, and their efforts.

I am also happy to see this compromise proposal establishes a national technology guard or NET Guard. This is a bill that Senator WYDEN and I introduced earlier this year to help local communities respond and recover from attacks on their information systems and communications networks.

After the September 11 attacks, I, along with other Senators, received volumes of information from numerous companies about their varied products, their systems, their programs, and their ideas regarding the defense of our homeland. As public servants, we want to be sure the Government has the necessary structure and process in place to test and apply new technologies to meet our homeland security needs.

The new Department of Homeland Security will have a designated center—and this is part of this bill—to serve as a technology clearinghouse to encourage and to support private sector solutions that enhance our homeland security.

Lastly, the Thompson-Gramm amendment makes the coordination of our Federal, State, and local officials charged with protecting our homeland a national priority. Over the last year, I have strongly advocated that any homeland security plan focus on interaction with local public safety officials as they are really on the front line of combating terrorist threats and attacks.

Specifically, I have worked in the Senate to promote the development at

the local level of a voice and data interoperable communications system for Federal, State, and local emergency responders. Last year, this Congress appropriated \$20 million for the CapWIN project. CapWIN has started to award contracts for the development of an interoperable communications system for Federal, State, and local public safety organizations in the greater Washington, DC area. That is Northern Virginia, the Maryland suburbs, and the District.

The CapWIN project is a real-life example of adapting technologies, specifically communications technologies, to address and overcome existing national security concerns, as well as homeland security concerns in this region.

I again thank my colleagues for listening to me, and to the tech community for their persistence and their positive leadership on this historic legislation. I respectfully urge all of my colleagues to support this carefully crafted measure that will help the President, Federal, State, and local agencies, and the private sector utilize the best innovations of technology, to analyze and respond and, thereby, protect the security of our American homeland.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, this homeland security bill has been debated for 7 weeks. We have pretty well talked about the issue enough. I do believe we are on the verge of acting on it, so I wanted to come over this afternoon, given that we are going to have a vote on cloture tomorrow, to make a few comments.

First, I do not think anybody set out with the goal of turning this into a partisan issue. We came very close to that happening. In the aftermath of the election, I think we have pulled back from that.

I thank the President for that. In the aftermath of an election where the President triumphed—I do not think there is another fair word—there might have been some who in those circumstances would have said: Let's take this over to next year and I will write it exactly like I want it. I think we could have all understood had the President taken that approach.

In the aftermath of the election, he had the right to take that approach, but I would have to say I admire the President for the fact he did not take that approach. There are not many people, after validating an issue in an election, who are still willing to compromise, but that is what the President did.

We now have a bill that will give the President the tools he needs. We have responded to legitimate concerns that have been raised. We have strengthened to some degree the ability of those people who are going to be affected by the second largest governmental reorganization in the history of our country to be heard, but on the other hand not

have the power to obstruct; to have input but not the ability to dictate. I think that represents a reasonable compromise.

Senator BYRD raised probably the most significant issue in that the original proposal would have dramatically transferred power from the legislative branch to the executive branch by giving the President the ability to reorder priorities in appropriations. If the Constitution is clear on one subject, it is that Congress has the power of the purse. I believe we have reached a reasonable compromise in that area. I know Senator BYRD is not for this bill, but I believe a major concern he raised has been dealt with, and I think his input improved the bill.

If I were writing the bill by myself, it would be different than the compromise we have reached, but to be honest it would not be much different. I say to people who are opposed to this bill to look at the alternative as we come down to the final moments before it is adopted. The alternative, it seems to me, is to wait for another bill until next year. For those who oppose the bill and for those who believe it gives the President too much power, I ask them to honestly ask the question: Do they believe waiting 3 more months in a new Congress, under new leadership, they will get a bill more to their liking than the bill that is before us? I believe an honest answer to that question is no.

I also believe 3 months does make a difference. Finishing the work in this Congress is important. Getting on with this Department is the right thing to do. So whichever side my colleagues are on—whether they are on the side of Senator THOMPSON and the President and believe that this is a good bill that ought to be adopted now, or whether they oppose it because they believe it gives the President too much power—it seems to me the right thing to do is to finish this job now, because if we wait until we come back in the next Congress, it will be February before we can get to it. The bill that will be adopted in February will be less to the liking of the President's opponents on this issue than the bill before us, and we will have squandered 3 months.

This is an incredible issue that does not come along very often, where at this point in time, no matter where one stands on the issue, it seems to me a plausible, logical, reasonable, and I believe correct case can be made that we should go ahead and act.

I am not expecting 100 Senators to vote for the bill, but I do hope people will allow us to go forward and adopt the bill. I do hope we get a strong vote. It does make a difference whether a bill passes 51 or 65, especially when we are trying to do something that is going to be very difficult and the President is going to need all the help he can get.

I thank Senator THOMPSON for his leadership and his in-depth knowledge on this issue which has been an indis-

pensable ingredient for those of us who have tried to work on it.

I thank Senator LIEBERMAN. Earlier, when I was off doing something else, I understand Senator LIEBERMAN said he intended to vote for cloture. I think that is an act of leadership, and I applaud him for it.

I thank my dear colleague ZELL MILLER, who has worked with me on the substitute that Senator THOMPSON has offered on our behalf. I think Senator MILLER's leadership has been indispensable on this bill. He has a way of getting down to the bottom line of what an issue is about and express it in terms that people can understand, and that has been a very important ingredient in getting us to this point.

I am ready to move forward. It is my understanding we are going to vote on cloture tomorrow. I hope after that cloture vote we could move to a vote on final passage tomorrow. If that is not to be the case and we carry it over until early next week, then we carry it over into early next week. But I do believe it is important we pass this bill in this Congress.

The House will finish its business this afternoon and will leave town. They have no intention of coming back. This is not really a take it or leave it kind of deal because this deal was negotiated over the weekend. We had broad input. We have some 53 Members who are committed to voting for this compromise. So it clearly has a majority, and I am hopeful that we will see that majority prevail.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Tennessee.

Mr. THOMPSON. Madam President, I thank Senator GRAMM of Texas for his strong leadership on this issue. He is one of the most eloquent, logical, and persuasive Senators who has ever served in the Senate, I am sure of that. The Senate is going to miss his strong voice. He is fierce in battle and he is magnanimous in victory. I am proud he is my friend, and I thank him for his comments.

It does look as if we are at a point where we can come together on a homeland security bill. I hope it is not done in a way that is a grudging concession for some, that they believe it is a bad bill but must on balance vote for it. I hope the employees who are going to be in this Homeland Security Department do not feel they are going to be taken advantage of or this bill in some way strips them of basic rights. Those sorts of things have been alluded to, but they are simply not accurate.

This bill preserves the antidiscrimination provisions and protections of title V—for example, discrimination based on color, race, religion, sex, age, handicap, marital status, or political affiliation; those protections are preserved. Those were never at issue. Protection from political coercion, a basic right that is set forth in title V, is preserved. Fair competition for employment is preserved, protection from nep-

otism whistleblower protection is preserved. Those rights are not trampled upon in any way. Workers are not being deprived of those rights. Veterans preference provisions are preserved. Equal pay for equal work provisions are preserved.

I hope we do not go down this road together, but still separate, in our feeling for the need for this bill because we feel in some way we can still draw lines between management and workers and play on any hostility or misunderstanding that might be out there. It is not based upon reality. It is based upon a recognition that our Government is simply not working very well in some areas, in some basic provisions. Many of our departments have troubles.

Senator DURBIN, with whom I will engage in a colloquy shortly concerning some technology provisions, is absolutely right when he talks about the problems our Government has with regard to getting our computers to talk to each other. This is simply another example of our Government not working very well. We have spent billions of dollars in the IRS trying to get the computers to talk to each other, to upgrade them and incorporate technology capabilities that private industry has employed for a long time. We had great difficulty in doing that. That is one small area of the problem. The other side of that problem coin has to do with personnel.

When the IRS was in such bad shape, we gave them additional flexibility to pay people more, to go outside the personnel rules and pay people more and give them more flexibility as to who they could hire. That is the sort of thing you do to solve the problem. Do not just identify the problem; try to solve the problem.

In department after department, agency after agency, we have looked at the problems our Government has as it grows, as the bureaucracy grows, and we get bogged down and cannot hire the people we need and we cannot fire the people we do not need. We get bogged down in endless disputes over minute matters such as smoking facilities and the color of the carpets in offices and things of that nature. We have given flexibilities to get around those things. That is what we are doing in this bill.

It is not a heavy-handed cram down that violates people's rights. It is simply a response to the fact that this Nation is in a different era now. We recognize the difference we are in, the different threat this Nation faces, one that it has never faced before. We are not fearful of vast armies and tanks and battalions rushing across Europe anymore and threatening our friends and our troops in that part of the world. It is much more insidious and much more dangerous than that, where a handful of people with modern technology can destroy the lives of thousands of people. We are just in the baby steps phase of even beginning to deal with that.

That is what the homeland security bill is about. It is taking the first baby step to organize ourselves to deal with that. We have a big battleship of a government and we are trying to turn it around a little bit. Oftentimes it is wasteful, inefficient. As Senator DURBIN points out, the computers cannot talk to each other. We have all the things that make it difficult to face the high-tech threats we are facing. That is what homeland security is all about.

We simply cannot exist in this environment in the world when, while we are the world's superpower, we are also the world's supertarget. We cannot exist the same way we have in times past, being willing to pay a few billion here and a few billion there because of waste and inefficiency in government, knowing things may not work—so be it—and we simply add another bureaucracy on top of that, have another election, and spend a few more billion dollars and absorb it because of our economic strength. We cannot do that anymore. We have to do things differently.

It goes back to equipment, computers, technology, and personnel and the flexibility to use and interchange those things to meet the modern conditions we are facing. We cannot go along anymore with a system that takes 6 months to hire someone and 18 months to fire someone. That does not work. Where, if you want to transfer someone to the front and get your best people in certain crucial places you have endless appeal rights that take years to resolve. We cannot do that anymore. It is not a matter of trying to take advantage of someone, it is a matter of trying to protect this country. That is what this is all about.

I hope this is not viewed as a take-it-or-leave-it proposition that has not been compromised. Some have said this is not a compromise, this is an agreement—meaning, apparently, the President was not willing to bend; or our side was not willing to compromise in any way, but we did agree to disagree and we are going to vote for the bill. That is the way I interpret that. It should not be that way. I don't think that is a justifiable response to the situation.

Going back to the beginning of this legislation, we must go back to Senator LIEBERMAN. Senator LIEBERMAN began this process. He should get great credit for that. He and a few others heightened our awareness to the need to take a different look. It was in the Governmental Affairs Committee, the committee that deals with Government organizations and reorganizations. Goodness knows, many Members have known the whole Government has needed a reorganization for many years. He said we should look at a reorganization with regard to the parts of Government regarding homeland security. We did not agree on exactly how to do that.

We had several hearings. We had committee consideration. I offered sev-

eral amendments as ranking member on the Governmental Affairs Committee. Some of the amendments simply were trying to incorporate current law into the Homeland Security Department and were voted down pretty much along partisan lines. We tried to negotiate the personnel flexibility issue at that point. We did not meet with any success at that point in trying to negotiate any of those things out. Senator LIEBERMAN had the votes. He passed the bill. He is to be commended for that. We might not be here today if it was not for him.

The fact is, there was disagreement and discussion and his side prevailed along party lines on just about every vote when we tried to get some authority for the President that other Presidents had. The answer was no. We tried to get personnel flexibility; some of the unions opposed that, but I think the people support it. The answer was no, all along the line. This has not been a totally one-sided proposition from our standpoint. I voted against the proposal in committee at that time. It was before a national strategy had been submitted by the President. I thought the President ought to have an opportunity, at a minimum, to analyze the nature of the problem and come forth with a comprehensive national strategy. That is what happened.

This bill, today, not only is not what Senator LIEBERMAN proposed, it is not what the President originally proposed, either. The President had more flexibility in his original proposal than is found in this amendment. The original bill did not have the various provisions in title V, nonwaivables. I do not think there was an intention to make them expendable at all, the various protections were not in the bill, but we wound up putting those in the bill. The President wanted appropriations transfer authority, up to 5 percent of appropriated funds. The President did not get that. That is not in this bill.

When it came down, Senator GRAMM and Senator ZELL MILLER, the two Senators who made the major proposal and response to the Lieberman bill, and whose work was so effective and we certainly would not be here today without their work, they suggested 2 percent, the President be given appropriations transfer authority up to 2 percent. We are going to have to create a new Department. We have to have some flexibility, some money to make these changes up to this amount. That is not in the bill either. An indemnification provision that was in Gramm-Miller, that is not in this bill either.

So there are things that each side wanted that are not in this bill. It has been compromised and discussed all along the way. It is true that somewhere along the line someone has to prevail on certain key issues. It is true that the President stood pat, pretty much, on his national security authority and took the position from day 1, and maintained that position through-

out, that he simply was not going to relinquish any authority that all other Presidents had since the time, really, of John F. Kennedy, when there was an Executive order that gave him that authority, and since the time of Jimmy Carter, that there has been a statute that gave them that authority. Democrat and Republican Presidents both exercised that authority. It passes down to George W. Bush, and the proposal on the other side was that there be new hurdles the President might have to go jump over before he could exercise that authority.

It made no sense to us or to the President that in a time of war we would be giving the President additional hurdles and roadblocks in order to, on occasion, exercise his national security authority in certain areas. He maintained that provision. He prevailed on that position. That is the position that is in this bill, and rightfully so.

The same thing is true with respect to personnel flexibility. I will discuss that perhaps in some detail. We have had a lot of discussion about this agreement or compromise, or whatever you would call it, that we introduced yesterday, but we really have not gotten into the details of what is in it to any great extent. If anyone wants to come down and speak on this bill, I will be glad to let them do so. But until that time, I will just go over a few of the provisions that are in this amendment that we filed.

With regard to the issue of personnel flexibility, as we know, the bill to create a Department of Homeland Security consolidates 22 Federal agencies comprising 170,000 employees, 17 different unions, 77 existing collective bargaining agreements, 7 payroll systems, 80 different personnel management systems. It is a monumental job under any circumstances—a monumental job. Reorganizing an agency with all the vested interests and positions that involves is a big job. This is a monumental job. It is imperative that some sort of procedure is put in place to enable the Secretary to create one unified Department to prevent terrorist attacks and protect our homeland.

We all agree that flexibility is needed. We have not been able to come to agreement, up until now, as to how much flexibility is required—flexibility meaning the guy who is going to run the agency, have to take the responsibility, have the accountability but be given the tools to get the job done with. That is a big job—the most important job, probably, in Government, outside the Presidency itself, in light of the world in which we live.

The idea of providing agencies with some increased flexibility with regard to personnel management is not revolutionary. Almost half of all Federal executive branch employees already work in agencies with human resource management programs that operate, in

whole or in part, outside the framework of Federal employees laws that are in title V.

I think we need to realize on the one hand that employees probably should not have an equal seat at the table with managers when it comes to running a Department; on the other hand, we need to emphasize in the law that some employee rights are basic they are basic and should not be subject to the whim of a manager.

An employee is entitled to appeal rights. We can discuss whether it ought to take 5 years to get something resolved or whether we ought to have five different levels of appeal. I think that is ridiculous in the day and age we live in now. We can do better than that but still keep those appeal rights. The manager should not be the judge and jury and executioner but should have the right to manage and then some appeal rights if he oversteps his authority.

This new bill sets up a consultation process for the creation of a human resources management system. It sets four steps management must take in order to create the new system. There is detailed language that provides for a preimplementation congressional notification, consultation, and mediation process the Department must go through, involving the management and employees of the Department, the Office of Personnel Management, Congress, Federal employee unions, and the Federal Mediation and Conciliation Service. So there is quite an elaborate process of consultation and even mediation where these views have an opportunity to be aired.

It is not all one sided. Sometimes reasonable people can actually sit down and modify their views when they have a chance to talk. It is not as if all the employees are going to look at it the same way. If I were a good employee, the way most of the employees are, and I were offered the opportunity of my management, my Department, having some more flexibility so that I could move more toward the things I am interested in and good at, that had a chance of higher pay and more recognition and a more significant mission, such as homeland security, but in exchange I had to agree that if I did something that caused disciplinary action I would only have, let's say, three levels of appeal instead of five, I think I would take that deal. I think most employees would take that deal.

In the first place, the overwhelming number of employees do not even get in that position because they are good employees. This is not something about which most employees are going to be concerned. I think it is going to be something most employees will embrace, if some of their leadership will be honest with them about what this is all about.

We are not talking about lower pay. We are talking about potentially higher pay. We cannot get good technicians in the modern marketplace to work for

the Government at the salaries we are paying now. We are going to have to do better.

There is good news in this bill. It is not an onerous thing, looking for a way to fire a bunch of people. That would never work. Natural attrition is going to take a tremendous toll on Federal employees anyway. We are going to be looking for good people. But a manager simply has to have the right in any kind of organization, especially one this big, especially one this complex, especially one that has this troublesome track record that so many of our Departments and Agencies already have—a manager must have some flexibility. We cannot incorporate the mess we have created in so many areas of Government into homeland security.

We have a golden opportunity to take the first steps toward doing something different, doing something right, something that can be a template, an example for other parts of government.

Also in this amendment is a provision concerning reorganization authority. It is important for Congress to consider granting the Secretary the ability to make programmatic reorganizations within the Department. It will take many years for the Department to get up and running efficiently. There may be many instances, for example, in which the various functions within the Department can be consolidated in order to eliminate overlap and duplication.

If you listen to GAO, and you ever read any of those reports—and you could fill this room to the ceiling with GAO reports talking about inefficiency, waste, fraud, abuse, overlap and duplication, year after year, Department after Department after Department. But in order to deal with this, a manager ought to have a right to do some consolidation.

While waiting for Congress, both Houses, with its 88 committees and subcommittees of jurisdiction, to hold hearings, introduce legislation, consider their proposal in subcommittee and committee, debate on the issue, vote, and then hold a conference on the legislation, it is important the Secretary be able to implement these changes in a timely manner.

Gramm-Miller was somewhat broader. The Secretary could go outside the agency, reporting to Congress. This does not allow going outside an agency. But it does not require a report to Congress. So there is an adjustment there. There is a compromise there. There is another indication that this is not a cram-down. This is the product of serious discussions back and forth, just as was Gramm-Miller. That whole process was a product of Senator GRAMM and Senator MILLER and others of us sitting down across tables and working out minute details.

That work product, which is the basis of where we are today, was moved further toward the positions of some of our other colleagues in order to get something that people not only could

grudgingly support but something they really thought was a good product and still got the job done.

You can always compromise and get an agreement just about on anything if it is meaningless enough and inconsequential enough. That is not the only key—getting a deal. The key is to get a deal that will get the job done and people can feel good about.

The bill before us today would enable the Secretary to initiate an internal reorganization that would reallocate functions among the offices of the Department so long as the Secretary submits a comprehensive reorganization plan to Congress.

I think this language goes a long way toward giving the Secretary the flexibility needed to ensure the long-term viability of this new Department.

Procurement flexibility is another important area. It is important throughout Government. It is especially important here. All of these problems need to be looked at with a magnifying glass. All these problems we see in these other areas—all of these, well, we need to do better here or there—become really magnified when you realize a handful of people with modern technology can murder tens of thousands or hundreds of thousands of people when you consider the vast ranging infrastructure that we have which is 90 to 95 percent in private hands. It is not something the Government can turn a switch and change overnight. When you consider that, all of these difficulties that we have had become greatly magnified.

Procurement is another issue that, for many years, we have accepted that the Federal Government has paid a premium, both in dollars and in time spent for goods and services it buys solely because of the unique requirements it places on contractors.

While the Federal procurement system has been streamlined and simplified over the last several years, much redtape and barriers still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

Last year, Congress provided the Defense Department with the authority to quickly and efficiently purchase the most high-tech and sophisticated products and services in support of the warfighter. I am pleased that the present bill includes provisions giving the Department of Homeland Security similar authority in its efforts to defend against terrorism and provide flexibility to buy technologies or products that are cutting edge but that may not have made it through the commercial marketplace yet.

Further, the bill also includes language that gives similar flexibilities to Federal agencies Governmentwide to support antiterrorism efforts and to defend against biological, chemical, radiological, or other technology attacks. Although these Governmentwide flexibilities are more limited than those

provided for in the new Department, all agencies of Government will be able to better avail themselves of the most sophisticated technologies in order to successfully fight against terrorism—one of the things Senator DURBIN was talking about just a while ago.

The bill before us today includes a provision that requires the Secretary to develop and submit to Congress a plan for consolidating and collocating the more than 1,000 field offices that will fall under the new Department's jurisdiction. Previous versions of the legislation required the Secretary to come back to Congress to ask permission to change these field offices. The language in this bill is more proactive, requiring the Secretary to take the initiative to come up with a way to unify the Department's front line of defense.

As to congressional oversight structure, we know what the situation is there. We have to have a sense of the Senate. Congress is beginning to acknowledge the obvious. As I mentioned before, the Department of Homeland Security will have 88 committees and subcommittees claiming jurisdiction over various aspects of this Department. It is bad enough for departments that must answer to two or three different committees. I can't imagine how much energy will have to be focused on reporting to Congress rather than to the Department. That oversight responsibility is important. It is just not the amount; it is the quality of it.

There is a provision in this bill for a sense of Congress rather than an actual requirement for Congress to revise its committee structure. That at least is a step in the right direction and an acknowledgment that Congress really should address the question of revising its committee structure and doing something about the fact that there are 88 committees and subcommittees that deal with this matter. That is not going to work. I think Congress would acknowledge that.

Another issue that is important to highlight is the compromise proposal for securing our Nation's borders.

There has been little dispute that the Immigration and Naturalization Service needs much improvement. On the one hand, there have been problems with INS enforcement functions and ensuring that those who may want to enter the United States to do us harm are not admitted. On the other hand, the INS has experienced big problems in backlogs in the processing of applications for visas and other immigration benefits for those qualified aliens who lawfully want to enter the country. So we have a law enforcement function and a services function.

This bill both strengthens the INS functions and promotes a stronger border. It places all of the INS enforcement functions, including Border Patrol inspections, within the Border and Transportation Security Director. This will allow the Border Under Secretary to effectively coordinate immigration efforts at the border with Customs and

the Transportation Security Administration allowing the Department to create a seamless border.

In addition, it establishes a bureau of citizenship and immigration services which will report directly to the Deputy Secretary.

The services part is not getting lost in the shuffle. It is important and will report directly to the Deputy Secretary.

This bureau will focus on immigration service, including the processing of visas and naturalization applications and administering other immigration benefits. The separating and restructuring of the immigration enforcement and service functions within this new Department will help establish the framework for increased security at our borders, as well as improve services for lawful immigrants.

I picked up the New York Times this morning, and I read a story that starts out as follows:

"The Immigration and Naturalization Service has begun an internal review to determine how a man suspected of having ties to the Islamic radical group Hezbollah was able to become a naturalized United States citizen," several agency officials said yesterday.

There is story after story after story. We must—must—do better, and hopefully this will be a significant step in the right direction.

During my tenure on the Governmental Affairs Committee, I spent a lot of time on legislation and oversight to protect the security of Federal computers and information systems. Senator LIEBERMAN and I worked very closely together in this regard for some years. I am pleased that this bill includes the Federal Information Security Management Act which will require Federal agencies to utilize information security best practices to ensure the integrity, confidentiality, and availability of Federal information systems. This language builds on and makes permanent the foundation laid by the Government Information Security Reform Act, a relatively new law which Senator LIEBERMAN and I sponsored, which requires every Federal agency to develop and implement security policies that include risk assessments, risk-based policies, security awareness training, and periodic reviews.

Now, that sounds like a big mouthful that is hard to understand, but what it means is our computers are very vulnerable to cyber-attack. As a part of our infrastructure, it is very vulnerable. A lot of people think the next big attack, if we ever have one in this country, will be preceded by this kind of cyber-attack. We must do more and do better in that regard.

At a time when uncertainty threatens confidence in our Nation's preparedness, the Federal Government must make information security a priority. The language in this bill is vitally important to accomplish this objective.

Law enforcement authority for inspectors general may seem like a small item, but it is an important item, and it is a part of an even more important thing; that is, the homeland security bill itself. I am pleased this bill includes a provision, which again Senator LIEBERMAN and I sponsored, to codify law enforcement authority for certain Presidentially appointed inspectors general.

In the wake of September 11, the FBI is diverting resources and agents to fight against terrorism like we have never seen before. As a result, the Bureau will rely even more heavily on the work of inspectors general to investigate fraud and other crimes in the Federal Government. This provision will ensure that the IGs have the tools they will need to carry out these investigations.

Now, this is not exactly the bill I would have drafted myself. I think almost anybody who speaks on behalf of it would say that. Some would say that is an earmark of a good bill. Some would say that is an earmark not of something that is being forced down folks' throats but is the earmark of something that has been compromised and worked out.

The intelligence issue is an extremely important one. How do we handle the intelligence issue with regard to the Department of Homeland Security? It is a big issue. It is a big problem.

Throughout this process, there have been a couple of different approaches to the creation of an intelligence directorate for the new Department. Some have sought to create a superintelligence agency that could direct other agencies that would be responsible for connecting the counterterrorism dots. It is a complicated problem.

We talk about connecting the dots. If the dots had been connected and had been there on the board for one person to connect, we would have avoided 9/11. The problem with that is these dots were within a sea of dots. For every dot we now know was significant, there were scores of dots right around it that looked the same that we now know apparently were not significant. So it is a big problem, much bigger than just putting somebody in charge of dot connecting.

Others, like myself, have argued for a structure much more modest that would be responsible for conducting threat and risk analysis and producing vulnerability assessments; in other words, look at our infrastructure. We have problems enough just assessing the vulnerability of our farflung infrastructure in this country, and then working with intelligence to figure out how best to protect it.

The emphasis of this structure would be on a critical infrastructure. One of my chief concerns, which I have repeatedly expressed in the Governmental Affairs Committee and on this floor, is that we not act too broadly in regard to creating this intelligence directorate. It is imperative we do not lull

Members into believing we have taken comprehensive reform of our intelligence community when so much, in my opinion, remains to be done in that regard.

But, for the most part, I am satisfied with the intelligence provisions in the compromise legislation that is before us. These provisions combine the directorates for information analysis and critical infrastructure, as requested by the President. It would be responsible for analyzing terrorism threat information, assessing the vulnerabilities of the American homeland, and producing risk assessments, something not being done anywhere else in the Federal Government.

These assessments tell us of the likelihood that a target will be attacked and will help us best allocate our limited resources. I believe this is the proper emphasis for this directorate.

Still, this bill goes further than I would prefer in the amount of information that is provided to the new Department. Specifically, the access-to-information provisions provided in this new directorate mean they will receive all information on terrorist threats, even if the provider of the information considers such information to be highly sensitive or not particularly useful or raw material. The only way to avoid this requirement is for the provider to convince the President the information should not be shared. If the President says this information is not to be shared, it will not be shared.

So I would prefer the burden be on the recipient to show a need for this information rather than the burden being on the President to stop it, but it is not a major consideration.

The fact of the matter is, we are going to try this out for a while to see what is best. We are not going to have it right in a lot of these areas, no matter which direction we take. But we will only learn how we can improve by getting started. That is why this bill right now is so important. We need to get started and see how it works.

Even our Constitution, as the Framers of our Constitution knew, is not a perfect document in that it would be exactly the way we would want it for 200 years without any changes. We saw some ways we could improve it. And that will not be any different with this legislation.

This provision will radically alter the current relationship between consumers and providers of intelligence information. I certainly agree with those who suggest the traditional means of sharing intelligence information with the community must be revamped. But I think it should be done next year as a part of a larger look at our intelligence community. I am concerned. The intelligence community is no different than the rest of our Government in that you live and you learn and you adjust. And we are undergoing a big adjustment now because of the change in the nature of the primary threats to this country, and the reprioritizing

that is going on, and the fact that for well over a decade we saw a decline in emphasis of some of the things we know are very important now, such as human intelligence, such as signals, intelligence capabilities, and still have the same operation. There is much more out there for that same operation to collect and deal with. They are swamped with information, and there are big adjustments to make. I admire the men and women who are valiantly trying to deal with it, but they have not dealt with it well in some respects.

We simply have to let the chips fall where they may after we have done a thorough analysis of what we are doing right and what we are doing wrong, and to what extent we need to reorganize, to what extent leadership has to be different. How do we get the good people we need? How do we keep them motivated? What should Congress do to give them political support?

Congress is great about seeing the horse running out of the barn and down the road and pointing out that the horse is out of the barn. We need to see how we can do a little bit better in terms of helping to resolve the problem instead of criticizing the way we have done it, and causing our intelligence community to hunker down and have as their No. 1 goal, which is the impression I get sometimes, not getting in trouble, not getting in trouble with us. I think that is a good goal, but it is not an exclusive goal. It is not even the most important goal.

All that needs to be looked at. If we think, in creating this Homeland Security Department, and a little Intelligence component emphasizing our infrastructure, that we have really dealt with all of that, we are fooling ourselves. That is a job for a little further down the road.

I notice the Senator from Illinois in the Chamber. I have a bit more, but if the Senator wanted to comment, I would be glad to relent.

I yield the floor.

Mr. DURBIN. I thank the Senator from Tennessee. I also thank him for his dialog with me during the last hour or two concerning my pending second-degree amendment which, as we noted in the RECORD, relates to modernizing information technology in the Federal Government to protect our Nation against terrorism.

I have discussed this with the Senator from Tennessee, and I know from some experience in this body that there are moments in time when you should try to find a good exit strategy which achieves as closely as possible your goals. I believe the Senator from Tennessee and I have agreed on such a strategy. I would certainly like to see my amendment adopted as part of the Department of Homeland Security legislation. It would be a valuable addition.

The Senator from Tennessee and I have discussed it. He has supported my amendment in committee, and I believe he agrees with it at least in prin-

ciple. However, we are faced with an extraordinary legislative responsibility to pass this bill literally in the closing hours of this session with very limited opportunities, if any, for amendment, or conference committee, resolving differences with the House.

So what I have agreed to with the Senator from Tennessee is to take a different approach and to be prepared to withdraw the amendment with an understanding and a colloquy between us on the floor relative to the issue. I thank the Senator from Tennessee for agreeing to that.

I believe there is a serious omission in this bill in that it does not address directly the issue of modernizing and coordinating information technology. The amendment which I have suggested, however, adds little more to the existing Federal statutory requirement of the Office of Management and Budget.

In 1996, two colleagues I have served with, former Congressman Bill Clinger of Pennsylvania and former Senator Bill Cohen of Maine, passed the Clinger-Cohen Act related to information technology management reform—1966, 6 years ago. If you read this and what they said in the law and required of the Office of Management and Budget, you reach the inescapable conclusion that this agency already has been tasked with the responsibility of modernizing information technology in the Federal Government. The sad reality is that after the passage of this legislation in 1996, it appears that little has been done, certainly not nearly enough has been done to meet the challenge we currently face since September 11, 2001, in terms of modernizing our computers.

The Director of the Office of Management and Budget is required, under the Clinger-Cohen Act of 1996, to make plans for information technology acquisition. Note that I said 1996. The reason I believe this amendment is necessary is that many years have passed with relatively little progress on improving Federal information systems and their interoperability. I believe that we can't wait any longer. In the name of national security, in the name of homeland security, we must demand that the Director of the Office of Management and Budget take the steps that would have been required by my amendment and by the Clinger-Cohen Act of 1996.

OMB must, in consultation with the Secretary of this new Department, develop a comprehensive enterprise architecture plan for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security, including the agencies inside the new Department and those that are outside of it but key to homeland security, such as the FBI and the CIA.

OMB must develop time lines, realistic and enforceable time lines, that are met to implement this plan. And a

particular person must be designated to be responsible for this effort. There has to be someone in charge of this project beyond Mr. Daniels, who serves as head of the Office of Management and Budget. There needs to be a person who is well skilled and versed in information technology with the authority, the power, and the responsibility of dealing with this issue. This person has to carry out the duties of the Director of OMB.

I also believe OMB must keep Congress informed on the development and implementation of this plan. My amendment would have required a yearly report.

I am fortunate that the people of my home State of Illinois have renewed my contract a week or so ago and given me an opportunity to serve for another 6 years. It will give me an opportunity to stay on top of this issue. I will pursue this issue and others of law and order in this venue, while my colleague from Tennessee pursues them in another venue. But I believe that what we are doing here is to at least serve notice on OMB that under Clinger-Cohen of 1996, they have the power and the responsibility, and with this new Department, they have a new imperative to meet these guidelines, these schedules, these time lines, and to really make significant progress.

We need to do more than just ask for a report. We need action. I will revisit this issue again in the next Congress, if significant progress is not made, but I trust that Mr. Daniels and members of the administration who share my concern about information technology will put their best efforts to work to make certain that it is met.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, as I understand it, my colleague from Illinois has withdrawn his amendment.

AMENDMENT NO. 4906 WITHDRAWN

Mr. DURBIN. Mr. President, if I may at this point, pursuant to the agreement I had with the Senator from Tennessee, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I appreciate my colleague's withdrawal of his amendment. As he knows, I agree with what he is trying to do with this amendment. I was a cosponsor of it when he offered it in the Governmental Affairs Committee. I agreed to cosponsor his amendment in committee because the problem of interoperability of Government information systems is a real problem and one we have tried to address for years. I mentioned the IRS a while ago as being a very good example of that.

Congress passed the Clinger-Cohen Act of 1996 in response to concerns about how the Federal Government was managing and acquiring information technology. Clinger-Cohen built

on the information management requirements of the Paperwork Reduction Act. The Director of the Office of Management and Budget, under both of these laws, is charged with the responsibility of overseeing and evaluating agencywide information technology management and acquisition. It is certainly consistent with OMB's own implementing guidance to expect that the Director will develop, in consultation with the new Secretary of Homeland Security, a comprehensive enterprise architecture plan for information systems, including communications systems to achieve interoperability. I agree with Senator DURBIN that OMB should develop and meet time lines to implement this plan.

Senator DURBIN's amendment would have required a particular person to be designated to be responsible for this effort. Certainly with all those people they have at OMB, I am sure they have someone with the expertise to be responsible for the success of this effort. I do know this is something that the folks at OMB are concerned about, and I have full faith that they will do the right thing about it.

I thank Senator DURBIN for his leadership on this important issue. I am confident the administration hears this and will be responsive on this issue.

On a couple of other issues having to do with our amendment that is under consideration today, as we attempt to wrap up the homeland security bill, there are provisions here dealing with the Department of Energy National Laboratories on which I would like to comment for a moment.

I strongly believe the new Department of Homeland Security, and particularly the Science and Technology Directorate, can benefit greatly from the cutting edge research and development being performed at our National Laboratories in this country—crown jewels of this Nation—much of which is directly related to homeland security.

Senator DOMENICI, Senator BINGAMAN, and I have worked hard to craft language that will allow the new Department of Homeland Security to take advantage of the expertise that is resonant at our National Laboratories in order to strengthen homeland security. I must say, however, I am disappointed that the compromise bill included language allowing the new Department to select a so-called "headquarters laboratory" from the National Laboratory system to serve as the focus for homeland security R&D.

I believe all the National Laboratories have something to offer this new Department and that the DHS should be able to directly access whichever laboratory it believes can best serve a given need. There should be a level playing field in this regard.

For example, if the Oak Ridge National Laboratory in Tennessee—just to pick a laboratory at random—has developed a technology that would help to strengthen our homeland security, or is conducting research in an area of

particular interest in the new Department, the Secretary should be able to go to this laboratory directly and take advantage of that. The Senate bills—the Gramm-Miller bill and Lieberman bill—set up a mechanism to allow this type of interaction.

The compromise includes many of our principles in these bills but doesn't place the same emphasis on this level playing field. I will note that the language in the compromise is permissive; that is, it allows the new Department to select a headquarters laboratory but doesn't require it to do so. I encourage the new Secretary, whoever he or she may be, not to do so. I hope the new Department will look at all of the National Laboratories for assistance and fully utilize the tremendous capabilities they have to help strengthen our homeland security.

On the issue of risk sharing and indemnification, which has been referred to earlier, I am disappointed the bill doesn't include language that would give the President the ability to exercise existing discretionary authority to indemnify contractors and subcontractors for Federal agencies' procurement of antiterrorism technologies and services. I had hoped this bill would clarify that the President, if he chooses, may use the indemnification authority of current law to provide companies supplying goods and services to the Government some certainty about the risk involved when developing cutting edge counterterrorism tools.

The law now covers wartime products and services—certain products and services having to do with wartime, and they are defined in the law and in the bill. But there are other items, such as mail sorters, and things of that nature, that may not fit into the same category I think ought to be covered, too. Instead of the indemnification provisions included in the Gramm-Miller amendment, this bill includes some limited tort reform provisions to protect the manufacturers and sellers of antiterrorism technologies that satisfy certain requirements.

Under the principles of federalism on which our country is based, tort laws are traditionally reserved to the authority of several States. I have never been one, just because I liked a certain policy, to federalize something that had been the province of the States for 200 years, simply because I wanted to conform it to my idea of national policy. That is inconsistent with our position on federalism. There comes a point on balance where the need for the development and deployment of effective antiterrorism technologies throughout the Nation supports the creation of national or Federal standards, upon the determination by the Secretary, of the technology if it meets the statutory criteria.

As time goes on, things change, certain things become national issues, certain things become matters of concern of even national security. We are

living in a different world, and I think we must respond to that. We make some progress toward doing that, without wholesale so-called reform that would totally federalize the areas that have been under the province of States since the creation of our Government.

Corporate inversion is another area that is dealt with in this bill. I am disappointed that the bill includes language to prohibit the Secretary from entering into contracts with U.S. firms that have reincorporated outside the U.S. through a series of transactions, commonly referred to as inversion. It is a very popular idea to punish folks who go outside and incorporate. We would do a whole lot better if we concentrated on improving the tax that caused it to happen. It is going to be part of this bill, and I wish it was not.

The Committee on Governmental Affairs, which has jurisdiction over Federal procurement policy, has not held a single hearing to consider this issue and its impact on the procurement process.

There are consequences to what we do around here. I think we will discover there are some consequences to this—maybe unintended—and they will be addressed later. So be it. One result of the language would be—get this—to allow foreign companies that have always been foreign based to bid on Department of Homeland Security contracts, but it would preclude foreign companies headquartered in the U.S. before the Department was created from bidding on U.S. Department of Homeland Security contracts, even if the work would be performed in the U.S. by American workers.

Maybe somebody will step up and tell me how that makes sense. It is in there, and it is not nearly as important an area as these other very beneficial sections of this bill.

In the interest of full disclosure, as I go through these provisions, I have to state my honest beliefs about them. This provision is not one of our finer moments in the bill.

In conclusion, I think we have come a long way since the Governmental Affairs Committee, under Senator LIEBERMAN's leadership, first considered legislation to create a Department of Homeland Security back in June. I look forward to the Senate's final consideration in the next few hours, days, or whatever, of this compromise amendment that I have introduced on behalf of Senators GRAMM, MILLER, and myself. I do not believe we will necessarily get everything right the first time around. But it is important that we come to agreement as soon as possible. I think this bill does that and, for that, I am happy.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I come to the floor in support of Senator LIEBERMAN's amendment to strike the provisions in the homeland security pack-

age that have nothing to do with homeland security.

Mr. President, we are here for the most critical and compelling of public interests; namely, our homeland security. But I have to say that we make a mockery of our duties if, instead of focusing our attention, our time, as we end this session, on this absolutely essential issue, we let the Homeland Security Department bill become a vehicle for other matters, special interests, pet projects that Members in either House have, instead of focusing on the business at hand.

Senator LIEBERMAN has eloquently listed a number of these provisions that have been inserted into the homeland security bill in the other House. I know my colleague from Connecticut is here to talk about something taken out of the bill that has direct implications for homeland security, which makes the shell game going on even harder to understand.

Among the many provisions that have no business being in this bill at this late hour of this session is one that offers special protection against litigation for pharmaceutical companies that manufacture childhood vaccines by using the homeland security bill to dismiss existing lawsuits. Now, I, along with Senators DODD and DEWINE, have legislation that we think is very important when it comes to pharmaceuticals and children.

We believe that protecting our children against shortages in the universally recommended childhood vaccines for diseases such as measles, tetanus, and polio is absolutely critical. Our bill would provide stockpiles and advance notice so that the Centers for Disease Control can manage shortfalls without having to turn children away when they come for immunizations.

There are very few public health achievements in the last century more significant than protecting children against vaccine-preventable diseases. Yet as we meet today, we are struggling with a vaccine shortage which clearly we need to deal with as soon as possible. It is a very important, sensitive issue.

We have bipartisan consensus around what we should do. Yet we could not put it on the homeland security bill. We were not given an opportunity to try to deal with a real problem, namely, the shortage of vaccines. We were told it was an unsuitable vehicle. Yet we find that others have not shown the same degree of respect for our Nation's security and have added all kinds of unrelated provisions.

I specifically want to focus on the vaccine liability provision. By excluding our vaccine supply proposal, they cannot even argue with a straight face that these provisions are needed to protect our children and protect their access to required vaccines.

The few one-sided provisions that have been snuck into this bill not only fail to protect or advance homeland security, they even fail to adequately

protect our children against preventable diseases. All they do is protect manufacturers of vaccines against lawsuits.

What is really sad is that we in the HELP Committee had been working on a comprehensive approach to dealing with these vaccine issues. Senator FRIST from Tennessee had such a bill that would include many of these provisions because he acknowledged, as a physician, that we not only needed to figure out what was appropriate to protect manufacturers from unnecessary liability, but, first and foremost, how to benefit children, consumers, and families.

We have worked very closely over a number of months with the Senators and their staffs—Senator FRIST, Senator GREGG, Senator KENNEDY, as well as Senator DEWINE and Senator DODD—to try to figure out how we would deal with these vaccine issues. They have been very productive discussions. We fully expect we will reach a bipartisan resolution early in the next session.

Unfortunately, we are now confronted with a homeland security bill that not only undermines our discussions but, once again, puts the health of our pharmaceutical companies in front of the health of our children. That is by no definition I am aware of homeland security. In fact, it is just the opposite. It is home insecurity. What are our families supposed to do? Many of us read the article in last week's New York Sunday Times magazine about the potential link between this very ingredient that the House has decided to protect against lawsuits, a compound known as thimerosal which is made of mercury that was put into a number of pharmaceutical preparations to preserve them, including into vaccines.

My colleagues read the article. We do not know what the right conclusion is. We do not know whether this has any effect on the rather alarming increase in the number of children who are diagnosed with autism and the related problems associated with the autistic condition, but we know it is a problem. Now all of a sudden, we are taking one provision out of all of the hard work that Senator FRIST and others have done to deal in a comprehensive way with our vaccine issues of shortage, liability, manufacturing standards, and everything else, plucking one thing the pharmaceutical companies wanted out and sticking it in homeland security. It is not surprising I guess after being here now for nearly 2 years. It is still stunning that in the midst of a debate about how to protect ourselves, by George, we are going to protect our pharmaceutical companies from what may or may not be fair questions about liability.

Now we will never know because it was those parents of children who had developed autism who were bringing the lawsuits to get to the information to figure out what was going on with this compound. Now they will be foreclosed from pursuing their lawsuits.

They will be told: Sorry, whatever research and work you have done to come up with some answers—and these parents deserve these answers—apply to the vaccine liability fund and we will take care of you, but we are not going to go any further; we are not going to try to find out what really is at the root of this increase in autism.

It is a very sad commentary that this is where we have come with this debate. As I listened to my colleague from Connecticut, whose idea it was to have the Homeland Security Department, whose legislation he masterfully maneuvered through the Governmental Affairs Committee, against the opposition of the administration, list all of these extraneous untested provisions that have been stuck into this bill at the last minute is disheartening because there has been no one who has believed more strongly in homeland security and the need to get our Federal Government smarter and quicker and more flexible than Senator LIEBERMAN.

I urge my colleagues to support the Lieberman amendment to strike unrelated provisions. If what we are concerned about is homeland security, if what the administration and the President have been talking about during this past election season about protecting our homeland is absolutely what we are supposed to be doing, then let's do that job. Let's do the job that needs to be done on homeland security without undermining other important issues that should go through the legislative process to reach the kind of bipartisan resolution they deserve.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before my colleague from New York leaves the floor, I wish to join with her in this call for support of the striking amendment. I am going to try to offer a couple of amendments—I do not know what kind of success I am going to have—to put some provisions back into the homeland security legislation dealing with the professional firefighters, as well as some law enforcement officials.

I have letters I will read into the RECORD shortly from the International Association of Firefighters and from Federal Law Enforcement Officers Associations urging in the strongest words possible that these amendments be included as part of the homeland security bill.

The point my colleague from New York has made, the great irony she has pointed out is that we now have provisions in the bill that have nothing to do with homeland security. They are a backdoor effort to undermine legislation being developed in a bipartisan fashion. We had cooperation.

We are now being told in this bill that we are going to undo efforts made dealing with children's safety and children's health and exclude the very provisions that are asked for by the first responders to homeland security

threats—firefighters and law enforcement.

Mrs. CLINTON. Will the Senator from Connecticut yield for a question?

Mr. DODD. I will be happy to yield.

Mrs. CLINTON. I am well aware of the Senator's longtime support for firefighters and the work he has done throughout his career to make sure our firefighters have the resources they need.

Isn't it ironic that we stand here debating a homeland security bill which has no money for first responders, and the only money that was in there they have now taken out? There is not a single penny that is going to the firefighters, the police officers, the emergency responders on the ground, and we are going to leave with a continuing resolution that also has no additional resources.

Since September 11 of last year, with our firefighters and police officers having faced many more challenges, is it not the Senator's understanding they have not received additional resources?

Mr. DODD. My colleague is absolutely correct. In fact, one of the things we find—I am sure the Presiding Officer has had the same experience—are simple things such as interconnectivity so that firefighters can talk to police departments. One of the problems we discovered in New York, the State that our distinguished colleague so ably represents, in the wake of 9/11 in New York City, was that the firefighters could not speak to each other—incompatibility of systems. They have been asking for some Federal help so police departments could talk to fire departments, could talk to emergency medical services and get some help in doing so. That was one of the provisions we wanted. That has been included in this bill.

It is incredible that we are faced with provisions in this bill to protect—and I say this as someone who represents many of them—the pharmaceutical companies that have objected to the idea of having to face a potential liability as a result of efforts to protect children from dreadful health problems. Yet the bill excludes language that would do exactly what the Senator from New York has described, and that is to see to it we have additional new firefighters on the ground. We have asked for it.

Reading from a letter from the International Association of Fire Fighters, they state:

On behalf of the 250,000 professional fire fighters who are members of the International Association of Fire Fighters, I want to express our deep gratitude—

And I apologize we are not going to be able to fulfill their sense of gratitude.

for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing. Your fire fighter staffing amendment expands upon the FIRE Act Grant program . . .

And then it goes on to say:

As fire fighters in New York and Washington demonstrated on September 11, fire

fighters save lives and are the linchpin to an effective terrorism response. Fire fighter staffing must be part of the homeland security bill.

It has been stricken. It is no longer a part of this bill at all. The Federal Law Enforcement Officers Association efforts are also not reflected in this bill now. They have been trying to get some help and support and that is not in here.

I ask unanimous consent that the correspondence from the International Association of Fire Fighters, the International Association of Fire Chiefs, and the Federal Law Enforcement Officers Association be printed in the RECORD so our colleagues can have the benefit of reading what these national and international organizations are calling for.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS,

Washington, DC, November 14, 2002.

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 250,000 professional fire fighters who are members of the International Association of Fire Fighters, I want to express our deep gratitude for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing.

Your fire fighter staffing amendment expands upon the FIRE Act Grant Program to allow for the hiring of thousands of new additional career fire fighters. Currently, inadequate staffing is the major crisis facing the fire service. Two-thirds of all fire departments currently do not have enough fire fighters to meet industry standards for safe fire ground operation. This exposes fire fighters to increased hazards when they respond to emergencies. Your amendment addresses this major firefighting hazard.

As fire fighters in New York and Washington demonstrated on September 11, fire fighters save lives and are the linchpin to an effective terrorism response. Fire fighter staffing must be part of the homeland security bill.

Again, thank you for your time and leadership on this important issue.

Sincerely,

HAROLD A. SCHAIBERGER,
General President.

INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS,

Fairfax, VA, November 14, 2002.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: The International Association of Fire Chiefs (IAFC) strongly supports your amendment to Department of Homeland Security bill (HR 5005) which would create a federal grant program to assist local governments in hiring career fire service personnel.

As you well know, our nation's first responders have been historically short-handed on the front line in responding to fire and life safety emergencies within our communities, as well as to emergencies involving the nation's critical infrastructure. Response to fires, medical emergencies, specialized rescue, releases of hazardous materials, and now threats and acts of terrorism have placed significant stresses on our limited personnel. The need for additional training,

staffing and equipment has increased dramatically over the last several years as the nation's first responders have accepted these additional critical response roles.

The federal government stepped forward in 2000, recognizing that the fire service's expanded role needed support beyond that which most communities were capable of providing. The Firefighter Investment and Response Enhancement (FIRE) Act provided much needed funding to purchase basic equipment and safety programs for communities unable to afford them.

But, our most critical resource is people. National studies have shown that a crew of four (4) on a responding apparatus is the most efficient crew when attacking a structure fire. The same studies showed that there was not only a higher level of efficiency in carrying out the department's mission, but a higher margin of safety for the public and emergency response personnel. However, there are few communities capable of providing that level of staffing. National statistics show that sixty percent (60%) of fire departments operate at emergency scenes with inadequate staffing. In addition, many of our members also serve in our nation's armed forces as reservists and national guardsmen and women. When they are called to duty in defense of our country they are no longer available to serve their communities in the fire department. This places an additional strain on our already limited human resources.

The LAFIC greatly appreciate your leadership on this issue.

Very truly yours,

GARRY L. BRIESE, CAE,
Executive Director.

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
Washington, DC, November 14, 2002.

Hon. CHRISTOPHER J. DODD,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR DODD: On behalf of the 20,000 federal agents who are members of the Federal Law Enforcement Officers Association (FLEOA), we respectfully request that SA 4839 be attached to the pending legislation creating a Department of Homeland Security. As you know, SA 4839 is an extension of S. 2770 introduced by you in May 2002 with bi-partisan support. FLEOA believes this is an urgently needed solution to the grievous problems existing in the federal agent pay structure.

FLEOA is a non-partisan professional association representing federal agents from the agencies listed on the left masthead. We are on the front line of fighting terrorism and crime across the United States and abroad. The current pay structure for federal law enforcement does not enable us to recruit the best and brightest to our ranks and retain senior agents in high cost of living areas. SA 4839 is the first step to rectifying this tremendous problem. SA 4839 only amends the locality pay for federal agents that were specified in Public Law 101-509. This proposal is supported by the Fraternal Order of Police (FOP), National Association of Police Organizations (NAPO), National Troopers Coalition (NTC), International Brotherhood of Police Organization (IBPO), and the Police Executives' Research Forum.

Again, FLEOA respectfully requests that SA 4839 be attached to the legislation creating the Department of Homeland Security. We thank you for your leadership on this issue.

Sincerely,

RICHARD. J. GALLO.

Mr. DODD. I ask unanimous consent that we temporarily lay aside the pend-

ing amendment so I may offer two amendments en bloc.

Mr. THOMPSON. I would have to object.

The PRESIDING OFFICER. The objection is heard.

Mr. THOMPSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4951 TO AMENDMENT NO. 4902

Mr. DODD. Mr. President, I will send to the desk an amendment in the second degree. This does not strike any provisions of the underlying amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment No. 4951 to amendment No. 4902.

Mr. DODD. I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:
(Purpose: To provide for workforce enhancement grants to fire departments)

At the end insert the following:

SEC. . GRANTS FOR FIREFIGHTING PERSONNEL.
Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

“(c) PERSONNEL GRANTS.—

“(1) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

“(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed \$100,000 per firefighter, indexed for inflation, over the 3-year grant period.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—A grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

“(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

“(4) APPLICATION.—An application for a grant under this subsection, shall—

“(A) meet the requirements under subsection (b)(5);

“(B) include an explanation for the applicant's need for Federal assistance; and

“(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

“(5) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.”; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

“(3) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated \$1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).”.

Mr. DODD. Mr. President, I thank my colleague from Tennessee.

I wanted to offer two amendments in one slot. I thought creatively of having one amendment en bloc, but that was not acceptable, so I made a choice on the two amendments, both of which are very important. I will explain both of them. The one pending deals with the firefighters and the tremendous need that exists to expand the workforce of first responders. I don't care which State you go to, when you talk of responding to terrorism, those called upon first to respond are State police, local police, firefighters, emergency medical service providers.

That point hardly needs to be made. Those who watched the scenes of 9/11, know who were the first responders to the World Trade Center and the first responders to the Pentagon. It is ironic, as we consider this homeland security legislation, the provisions struck by the other body as they sent the bill over were the provisions for assistance to the local first responders in the case, God forbid, of a terrorist attack.

I wanted to include an amendment to amend the Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas. The Presiding Officer is sensitive to this question, as we represent neighboring States. There, we are losing people from our Federal law enforcement agencies because of the pay differentials. It is impossible to meet the costs of living in certain areas of the country. I will make another effort before this bill is completed to see if we can consider that critically important amendment to the homeland security effort.

For purposes of this debate, the only amendment that will be under consideration is the amendment dealing with firefighters. Both of these amendments fix glaring omissions in the pending substitute. The amendment I am offering on behalf of the firefighters provides Federal assistance to local fire departments to hire 75,000 new firefighters to address new homeland security needs.

Senator JOHN WARNER, my friend and colleague from Virginia, and I recognized the problem of firefighter understaffing shortly after September 11 and we wrote legislation to help solve the problem. The amendment is based on the bill Senator WARNER and I wrote. This amendment also builds on the

FIRE Act, which Senator DEWINE and I authored in 2000. With the support of Senators WARNER and LEVIN the FIRE Act became law, and has provided some \$400 million to tens of thousands of firefighters around the country. Today's amendment is also nearly identical to an amendment authored by Senator CARNAHAN, which was accepted by the Governmental Affairs Committee earlier this year.

One aspect of being prepared is to have the men and women on the ground who can put out the fires and respond to the injuries and the tragedies that may occur. Just as we call upon the National Guard to meet the increased needs of more manpower in the military, we must make a national commitment to hire additional firefighters necessary to protect the American people on the homefront. The legislation we proposed would put 75,000 new firefighters on America's streets over 7 years.

Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined. Today in the United States there is only one firefighter for every 280 citizens. We have fewer firefighters per capita than nurses and police officers, and we need to turn this around now more than ever. Understaffing is such a problem that according to the International Association of Fire Fighters, nearly two thirds of all fire departments cannot meet minimum safety standards. OSHA standards require that for every team of two firefighters in a burning structure, another team of two be stationed outside to assist men in the event of collapse. Sadly, too many men and women are lost because there is no second team outside the unstable buildings. We saw this in Worcester, Massachusetts a few years ago.

I will not go down all of the provisions that emphasize the importance of having the additional personnel on the ground. I mentioned earlier we had a letter from the International Association of Fire Fighters, and that letter is printed in the RECORD, along with a letter from the International Association of Fire Chiefs. So this is a case where you have both labor and management making the same request as we consider this homeland security legislation.

I do not want to belabor the point. I am struck by the fact we would drop provisions which have been almost universally supported in this Chamber even prior to 9/11, the need for additional personnel on the ground to provide assistance to local communities through grant applications. To give an idea of the pent-up need, when we originally authored the FIRE Act which was to provide grant moneys to local departments, the 33,000 around the country, paid, volunteer, or combination departments, there was \$100 million put into the budget to provide grants to local communities. In excess of \$3 billion in applications in the first year came to FEMA because of the

pent-up need that exists across the country for additional equipment, and to provide additional personnel, additional training, so firefighters can respond.

Most Americans today are aware, obviously, that the role of firefighters and EMS services are vastly different than even a few years ago. Today, firefighters are called upon to respond to situations where highly toxic chemical materials are involved. The degree of sophistication to be brought to the trade of firefighters is so much more complicated than before, as the demands have increased dramatically. When we speak of volunteer departments, for instance, we rely on the good will and the spirit of volunteerism. In many of our rural and local communities, people volunteer to serve. Yet today they are called upon to respond to very complicated and dangerous situations.

There was an overwhelming degree of support when Senator WARNER and Senator LEVIN took the bill that Senator DEWINE, myself, and others fashioned and included as part of the Defense authorization bill. Then, of course, the appropriations were forthcoming and the demand was evident. After 9/11, the demand increased dramatically as a result of the new threats of terrorism.

I am deeply troubled and saddened that we are talking about homeland security and yet there is nothing in this bill, nothing, that provides one red penny to hire first responders of terrorist attacks. How ludicrous is that? We are talking about a homeland security bill and we have nothing in here to go to local police, fire, and EMS services, and we will call this a homeland security bill. The great irony, as our colleague from New York pointed out, is there are provisions in this bill to protect the pharmaceutical industries from lawsuits where vaccines are developed for kids. How do you explain that to the American public? We sneak provisions in this bill to protect corporate America, yet we will not provide money to those who are called upon to respond, God forbid, if another terrorist attack occurs. How do you explain that to the American public?

Under these procedures we are dealing with—and it gets confusing even for those who have been here a while with post cloture and other procedural roadblocks—I am probably not going to get a vote on this amendment dealing with the firefighters. I probably should not waste the time to bring it up, but people ought to know that while people go around and beat their chest about homeland security in this bill, you should not be deluded by the name. The name may sound pretty good, but underneath it are a lot of problems. There are things that are in this bill that have nothing to do with homeland security, and there are things that should be in here that are not. These firefighters need our help and support and backing.

I regret I was not able to include the problem dealing with law enforcement, an amendment which has—I will not bother listing everyone here, I will include these names for the Record—a broad-based constituency here of some 30 Members of this Chamber who have supported this bill, S. 2770: Senator BAUCUS, Senator BIDEN, Senator SNOWE, Senator DEWINE, Senator DURBIN, Senator COLLINS, Senator CORZINE, Senator SCHUMER, Senator MURRAY, Senator WARNER—the list goes on here, of our colleagues who have supported this law enforcement provision that I mentioned earlier about the great disparity in pay. We are losing these people.

I am not allowed under the procedures to offer that amendment now. I will try to find a chance to do it in the next few days, at least to make an effort to have it as part of this bill. Again, I have a very strong letter from the law enforcement agents, asking for some assistance here.

I don't know how you explain to people what we are doing in homeland security as law enforcement and firefighters here are basically going to be left out of this bill. I regret that is the case.

I am faced now with this particular second-degree amendment, and we will see what happens over the next day or so and whether or not we can actually get a vote on it, but I wanted to take a few minutes to explain my concerns about it.

Earlier this year, of course, we had adopted funding for the FIRE Act as a separate appropriation. It was not vetoed, but it was tantamount to a veto. It was what we call sequestered by the President. He took those moneys and basically said I am not going to sign this into law. So the grant money for communities in Rhode Island and New Jersey and Michigan—all across the country—who were looking for us to be a partner in getting better prepared to deal with the threats of terrorism, I am sorry to tell you, are not included in here. I don't know who you are including in homeland security, but you are not part of the deal. Apparently the pharmaceutical industry is, but we are not. We will try our best in the next few days to rectify this, but under the rules and procedures I don't think it is going to happen, I am sad to report. Maybe we can try in the next Congress.

But I am saddened we are passing a homeland security bill and firefighters and law enforcement officials are not going to be a part of this effort, at least as far as these amendments are concerned.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first I thank the Senator from Connecticut for his eloquent remarks. I could not agree with him more.

When we look at this bill, a bill that I fully want to support—I support setting up a Department of Homeland Security and the goals involved, and have

supported moving this forward. But as we look at the details of what has been given to us from the House, it is unbelievable. When we look at first responders, people in Michigan on the front lines on the ground—not only police and firefighters and EMS but our Border Patrol who are working double time and triple time, and those from local law enforcement who have been assigned—we have been trying to provide some reimbursement for their overtime and the costs to local units of government. It is amazing to me that in the name of homeland security we have a bill in front of us that does not include many things that are critical to our security in this country but that includes items, frankly, that are outrageous special interest items that are being stuck in the bill, hoping we will not notice.

We all are concerned about homeland security and want to move forward together to put together the strongest safety and security for our citizens. I want to speak to one of those today that colleagues have already spoken to that is a provision, unfortunately, in this bill, that protects the financial security of the pharmaceutical industry, not the homeland security of the people of America. This provision I find absolutely outrageous and I intend to support the Lieberman amendment to withdraw this from the bill.

The homeland security bill contains a provision that will expand the liability protections that currently exist for vaccines to include other components such as vaccine preservatives like thimerosal. This was included in the bill with no debate, no committees.

How many times have we heard on this floor as we were debating so many bills—I remember on prescription drugs—we heard over and over again that we should not be adding important provisions that would lower the prices of prescription drugs because, colleagues on the other side of the aisle were saying, we had not gone through the regular legislative process. We had not had hearings. There had not been votes in committees.

Yet now, in the 11th hour of the session of this Congress, we see a provision added that nobody has looked at other than a few people, I would argue, operating on behalf of one of literally the strongest special interests in this country today.

There are six drug company lobbyists for every one Member of the Senate. They certainly have earned their pay on this bill.

When we look at this particular provision and we look at the fact that we have an industry that has stopped a bill that we sent to the House, S. 812, that was a bipartisan bill to create more competition for the industry through generics, opening the border to Canada, giving States the ability to negotiate on behalf of the uninsured, a bill that would lower prescription prices today, immediately when passed—they are successful in killing that bill that passed last July in the Senate. Yet they are able to place a

provision in the homeland security bill that will virtually exempt from liability a company that is making a product over which there is great concern as it relates to the safety of children.

Thimerosal, which is manufactured by Eli Lilly and Company, is the subject of several class action lawsuits based on increasing research connecting this preservative, which contains mercury, to the rising incidence of autism in children. Just this weekend the New York Times ran a very comprehensive six-page story about the growing body of evidence connecting thimerosal with autism and other developmental disorders in children. While the research is far from conclusive, is this narrowly written special interest provision, unrelated to homeland security, the way to respond to concerns that relate to this issue and concerns about mercury as it relates to vaccines and additives and the whole question of autism in children and what contributes to it? Is this the way to do that?

Don't children and their families merit the full protection under the law and due process to be able to sort through some very serious issues and to allow the courts to work their will, looking at the evidence? The provision in this homeland security bill, brought to us from the House of Representatives, would severely limit parents' ability to get justice for their children. How is that homeland security?

The provisions include vaccine components in the National Vaccine Injury Compensation Program. It is a program in which awards are given and they are limited to funds available through a special trust fund so liability is limited. Instead, it is a no-fault system. That would now include vaccine components, which is a far broader definition than vaccines.

In 1988, Congress enacted the National Vaccine Injury Compensation Program as a no-fault alternative to the tort system for resolving claims resulting from adverse reactions to mandated childhood vaccines. This Federal no-fault system is designed to compensate individuals or families of individuals who have been injured by childhood vaccinations, whether administered in the public or private sector. Damages are awarded out of a trust fund that is financed by excise taxes of 75 cents per dose imposed on each vaccine covered under the program.

This bill seems to be protecting the financial interests of a company, Eli Lilly, rather than the taxpayers who will now see, through this fund, a greater subsidy, and families and children across this country.

What I find particularly disturbing is we are looking at a company whose CEO is in the top five for compensation with \$4.3 million in compensation last year and unexercised stock options valued at \$46 million in the year 2001. A 2001 study of the top 50 drugs marketed to seniors shows that Eli Lilly and Company posted \$115 billion in revenue. I do not in any way object to successful business, although I guess in this case

I would say given the inability of people to receive medicines, I find that kind of salary and others across the industry disturbing.

But what I am particularly concerned about is that a company which is so successful, an industry that is the most successful in the country, and highly subsidized by taxpayers, would now be in a situation to protect themselves from liability, and to jeopardize families and children who are asking that their case be heard about potential threats of mercury placed into vaccines and the possible connections to autism.

The protection in this bill is included for an industry that gets a higher return on its revenue than any other industry in this country, or in the world. If we are looking at protection, certainly we ought not to be adding another subsidy to an industry that is so heavily subsidized by all of us now—highly subsidized. And, yet, most people, many people in this country cannot afford the product they make.

I support the Lieberman amendment to strike this provision. This provision does not belong in the homeland security bill. This provision should go through the process of hearings so both sides can be heard. We also have a court process going on that we need to respect and allow to continue.

I am hopeful my colleagues will join with us to exempt this provision from the bill so we can in fact focus on homeland security, and not a very clear special interest provision put in by an industry that already receives many special provisions.

An issue as serious as potential mercury poisoning of children certainly deserves serious deliberation and deserves the full legislative process.

Let me say again that colleagues earlier this year on the Medicare prescription drug bill—on our generic bill as well as on many other bills—have come to the floor from the other side of the aisle expressing concern about issues that had not gone through committee. If this is a serious issue—and I believe it is a very serious issue—doesn't it merit that same high standard? Subsidizing Eli Lilly and taking away the ability of families to recover from liability because of potential mercury poisoning of their children does not belong in this homeland security bill. I find it shameful that it was put in.

I hope my colleagues on both sides of the aisle will join with us to remove this provision.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Michigan, Senator STABENOW, that I have listened to what she has said. I am not surprised by what she has indicated that she has found in this reservation. I think it supports my viewpoint; namely, that we ought not vote

on cloture tomorrow on this bill—cloture at some point, undoubtedly. But I hope we don't vote for it tomorrow. This bill needs further scrutiny. It needs a microscope upon it. We need to study it. We need to know what is in this bill which has suddenly been foisted upon us within the last 48 hours—a new bill.

There are those who maintain we have been on this subject matter for 5, 6, or 8 weeks, or more. That is one thing. But we haven't been on this bill. This is a new bill. Senator STABENOW is talking about provisions that are in this bill that haven't seen the light of day before. These are new and disturbing. And yet we are being asked on tomorrow to apply cloture to shut off debate so there can only be 30 hours remaining for debate on this bill.

I hope Senators will listen to Senator STABENOW. I hope they will not vote for cloture tomorrow. We ought to do our duty. Our duty is to stay on this bill until the American people know what is in it, and so we Senators know what is in it. There are 484 pages in this bill which just came to light on yesterday. It is a new bill. There are some provisions in it that have been in other bills that have been discussed in the Senate earlier in the fall and in the summer. But there are many provisions in this bill that are absolutely new. We really do not know what else is in the bill. Things are being discovered as we go along. But who knows what else is in the bill?

I compliment the distinguished Senator from Michigan, a Senator who is absolutely able and always dedicated, always serving her constituents and the people of this country, who has a fine mind, and who is a tremendous legislator. I have so much admiration for her. I sit with her on the Budget Committee. And what she has said with respect to this particular bill I think we should hear. We should listen to her. I hope Senators will not vote for cloture on tomorrow.

Is there anything the distinguished Senator wishes to add?

Mr. President, I ask unanimous consent to yield to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, first of all, I thank the Senator for his kind words. Second, I simply say, as Senator BYRD has said so many times on the floor, we need to look at details. We need to know what is in this bill. It is a different bill that came back. I was deeply disturbed as I looked through it. I want to support homeland security. I support developing a department. We all share that. This is not a partisan issue. We want to have maximum safety, security and ability, communicate it effectively and efficiently, and create the kind of confidence people expect us to create in terms of the ability to respond and ideally prevent attacks. But my fear is that under the name of homeland security we are saying spe-

cial interest provisions are put in this bill which are outrageous and should not have the light of day. I think it is our responsibility to shine the light of day on those provisions.

I thank the Senator from West Virginia. I appreciate his good work.

Mr. BYRD. Mr. President, I thank the distinguished Senator. She has performed a tremendous service. I congratulate her, and I again thank her.

Mr. President, we hear this is a compromise bill. It is a compromise, all right. It is a compromise in many ways. It is a compromise of our civil liberties. It is a compromise of our separation of powers. It is a compromise of our checks and balances. It is a compromise of workers' rights. There are many compromises in this bill.

To express it as a compromise is a term that is often used around here in the legislative halls. Legislation is the art of compromise. We often compromise on legislation. Compromise on legislation is a series of compromises among Republicans and Democrats, and among committees. But, in this sense, this is a far different animal we have here. By passing this legislation, we are all complicit in a giant hoax. This is the worst kind of game playing possible in trying to foist this Department onto the American people as a substitute for real action on homeland security.

This Congress and this administration are both being irresponsible. Instead of providing the American people with real security, we are offering them a placebo, a sugar pill that will not protect them and will not make them safer, not by even the slightest measurement.

There will be an uncertain sound of the trumpet. And when I refer to the "uncertain sound of the trumpet," let me refer more specifically to the Book of 1st Corinthians, the 14th chapter. And I read from the 8th verse:

For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

Mr. President, Congress is about to give an uncertain sound to the American people. Based on what we shall all too soon, I am afraid, pass as a homeland security bill, they are going to feel more secure. They will not be. They are going to feel that Congress has enacted legislation that will make their homes safer, make their schools safer, make their communities safer, make them safer on the jobs. This legislation will not make jobs or schools or homes or communities one whit safer, not one whit safer.

The same people who will be employed in implementing the homeland security legislation to make the people safe are out there now, right this minute. They are on the northern border. They are on the southern border. They are in the ports of this country. They are in the hospitals. They are in the fire departments. They are in the law enforcement agencies. They are in the FBI. They are in Customs. They

are already out there now. And tonight, at midnight, when you and I are in our beds and on our pillows, they will be out there.

We are not waiting until this bill passes for them to be out there. They have been out there for weeks and months. They have been doing a good job with what they have had placed in their hands by way of resources that they could use.

We saw the FBI arrest the persons in the cell in New York. The FBI was on the job. The FBI did not wait for this legislation to pass this Senate or the House and be sent down to the President and signed. The FBI was on the job.

People are not going to be one whit safer with the passage of this bill. They are going to feel a lot safer because we are trying to make them believe they are going to be safer. We are trying to make the American people believe that with the passage of this bill—and the administration is complicit, absolutely complicit in this.

The President himself has been out there all throughout the land, especially during the campaign, raising money for campaign purposes for electing their candidates, and all the while they have been with a nice backdrop of American Marines or soldiers or airmen, or whatever, but a patriotic backdrop, trying to make the American people believe that with the passage of this—if the Congress would only pass this homeland security bill, they, the people out there in the plains, in the mountains, in the valleys, on the prairies, will all be safer. They will not be 10 cents safer, Mr. President. They might be even less safe because in the next year, during which time these various and sundry agencies are going to be phased into this new Department of Homeland Security, during that time there is going to be chaos in a lot of these agencies. They will be moving phones, moving desks, moving chairs, trying to get accustomed to the new visions, the new objectives, and the people themselves are going to be less secure.

So we are offering the American people a placebo, a sugar pill. It is a political pill. It will not make the people safer.

We ought to be taking real action to protect lives now. Sadly, we are walking away from that responsibility. I only pray our irresponsibility does not result in lost lives.

Now, this is not how the American people expect this Congress to operate. When we were Members of the House of Representatives, or earlier than that, perhaps, or at some point, we have sent out letters, we have sent out booklets, telling the young people in this country—we tell these young pages up here—how your laws are made.

I remember years ago, when I was in the House of Representatives, sending out a little booklet to the people in my then-congressional district of how our laws are made. It is a joke.

We tell our young people that, first of all, a bill is offered by a Member of the Senate or the House. That bill is referred to a committee. And at a certain date, at a certain time, the chairman of that committee will have his committee called together, and he will place the bill before the committee for its consideration. And the members on both sides of the tables in that particular committee which has jurisdiction over that particular legislation will debate it back and forth, and they will offer amendments in the committee. They will talk about the bill. They will have their staffs seated around them. They will have good discussions of this bill that has been introduced by the legislature. Then the bill will be amended, perhaps, or, perhaps, in any event, it will finally be reported by the committee to the Senate or to the House for action. There it will be placed on the calendar.

Sometimes these beautifully written pieces on how our laws are made are illustrated by cartoons. We have all seen those cartoons. We then see that the bill is off to the Senate, and it is placed upon the calendar. And at some point in time, the majority leader or a Member, according to those cartoons, will call up the bill, and then will ensue a debate, a heated debate, Republicans on one side, Democrats on the other. And they will all work together. They will offer amendments again, and they will have a heated debate. They will answer questions. The witnesses, which first appeared in committees and testified on the bills, may then be seated in the galleries listening to the debate as it goes forward in the Senate and in the House.

After a while, then, after they amend, after that bill is appropriately amended, it finally reaches a vote, and it is passed by that body.

Then, according to the booklet on how our laws are made, that bill then goes to the other body. If it originated in the Senate, it goes to the House. If it originated in the House, after going through the workings of the committees, and so forth, and the debate on the floor, after its passage, it is sent over to the Senate. It goes through the same procedure then in the other body, where it is amended. And if there are differences in the House bill and the Senate bill, the bill is sent to a conference made up of Members of the two bodies, and the areas that are not in agreement will be worked on in the conference between the representatives of the two legislative bodies. Agreement will finally be reached as to every difference that was to be found between the two bodies. So all those differences will be resolved.

Then the conference report will be brought back to the House and brought back to the Senate and brought up at the appropriate time by the managers of the legislation on whatever committee had jurisdiction over the legislation, and then conference reports are brought up. Conference reports are de-

bated, and they are agreed upon in both Houses.

Off goes the bill which is now an act. It goes by special messenger down to the President of the United States. It appears on his desk where he may sign it or he may veto it.

So we all remember how those laws are made according to the script as prepared there in those handsome little booklets that we send out.

That is how the American people expect this Congress to operate. That is the way we are supposed to operate. But the way this bill was brought in here, less than 48 hours ago, a brandnew bill. It had not been before any committee. It had undergone no hearings, not this bill. It is a bill on our desks that has 484 pages. There are 484 pages in this bill. It has not been before any committee. There have been no hearings on this bill. There have been no witnesses who were asked to appear to testify on behalf of the bill or in opposition to it. It did not undergo any such scrutiny. It was just placed on the Senate Calendar. It was offered as an amendment here. And so here it is before the Senate now. There it is.

That is not the way in which our children are taught how we make our laws—not at all. The American people expect us to provide our best judgment and our best insight into such monumental decisions. This is a far, far cry from being our best. This is not our best. As a matter of fact, it is a mere shadow of our best. Yet we are being asked, as the elected representatives of the American people, those of us who are sent here by our respective States are being asked on tomorrow to invoke cloture on these 484 pages.

If I had to go before the bar of judgment tomorrow and were asked by the eternal God what is in this bill, I could not answer God. If I were asked by the people of West Virginia, Senator BYRD, what is in that bill, I could not answer. I could not tell the people of West Virginia what is in this bill. There are a few things that I know are in it by virtue of the fact that I have had 48 hours, sleeping time included, in which to study this monstrosity, 484 pages.

If there ever were a monstrosity, this is it. I hold it in my hand, a monstrosity. I don't know what is in it. I know a few things that are in it, and a few things that I know are in it that I don't think the American people would approve of if they knew what was in there. Even Senator LIEBERMAN, who is chairman of the committee which has jurisdiction over this subject matter, even he saw new provisions in this legislation as he looked through it yesterday and today. As his staff looked through it, they saw provisions they had not seen before, that they had not discussed before, that had not been before their committee before.

Yet we are being asked on tomorrow to invoke cloture on that which means we are not going to debate in the normal course of things. We are going to have 30 hours of debate. That is it, 30

hours. That is all, 30 hours; 100 Senators, 30 hours of debate. And this is one of the most far-reaching pieces of legislation I have seen in my 50 years.

I will have been in Congress 50 years come January 3. God help me to reach that date of January 3, 2003, the year of our Lord. In my 50 years here, that is the most far-reaching, certainly one of the most far-reaching pieces of legislation that I have seen in my 50 years. I have been on this Hill longer than anybody else in this Capitol on either side of the aisle in either body. In both bodies, I am the only person, 50 years. I have been here longer than all of you, staff people, Members, Members' wives. Take it or leave it, ROBERT BYRD has been here longer than anybody else—the security personnel, any policemen, whatever you call it, pull them out here, nobody, nobody in the House. JOHN DINGELL, he is the dean of the House; I served with his father in the House.

Never have I seen such a monstrous piece of legislation sent to this body. And we are being asked to vote on that 484 pages tomorrow. Our poor staffs were up most of the night studying it. They know some of the things that are in there, but they don't know all of them. It is a sham and it is a shame. We are all complicit in going along with it.

I read in the paper that nobody will have the courage to vote against it. Well, ROBERT BYRD is going to vote against it because I don't know what I am voting for. That is one thing. And No. 2, it has not had the scrutiny that we tell our young people, that we tell these sweet pages here, boys and girls who come up here, we tell them our laws should have.

Listen, my friends: I am an old meat-cutter. I used to make sausage. Let me tell you, I never made sausage like this thing was made. You don't know what is in it. At least I knew what was in the sausage. I don't know what is in this bill. I am not going to vote for it when I don't know what is in it.

I trust that people tomorrow will turn thumbs down on that motion to invoke cloture. It is our duty. We ought to demand that this piece of legislation stay around here a while so we can study it, so our staffs can study it, so we know what is in it, so we can have an opportunity to amend it where it needs amending.

Several Senators have indicated, Senator LIEBERMAN among them, that there are areas in here that ought to be amended.

What the people of the United States really care about is their security. That is what we are talking about.

We don't know when another tragic event is going to be visited upon this country. It can be this evening, it can be tomorrow, or whatever. But this legislation is not going to be worth a continental dime if it happens tonight, tomorrow, a month from tomorrow; it is not going to be worth a dime. There are people out there working now to secure this country and the people. They

are the same people who are already on the payroll. They are doing their duty right now to secure this country.

This is a hoax. This is a hoax. To tell the American people they are going to be safer when we pass this is to hoax. We ought to tell the people the truth. They are not going to be any safer with that. That is not the truth. I was one of the first in the Senate to say we need a new Department of Homeland Security. I meant that. But I didn't mean this particular hoax that this administration is trying to pander off to the American people, telling them this is homeland security. That is not homeland security.

Mr. President, the Attorney General and Director of Homeland Security have told Americans repeatedly there is an imminent risk of another terrorist attack. Just within the past day, or few hours, the FBI has put hospitals in the Washington area, Houston, San Francisco, and Chicago on notice of a possible terrorist threat. This bill does nothing—not a thing—to make our citizens more secure today or tomorrow. This bill does not even go into effect for up to 12 months. It will be 12 months before this goes into effect. The bill just moves around on an organizational chart. That is what it does—moves around on an organizational chart.

Mr. President, do you really believe Osama bin Laden cares whether the associate commissioner for border enforcement will have his title changed to the Assistant Secretary of the Bureau of Border Security? Will that make any difference to Osama bin Laden? Do you think the al-Qaida organization cares one whit whether that Assistant Secretary works for the Commissioner of the Immigration and Naturalization Service or for the new Under Secretary for Border and Transportation Security? No. Osama bin Laden doesn't give a whit what his title is going to be. The al-Qaida doesn't care about that. They are tickled to sit back and watch us be fooled into complacency by virtue of our passing this piece of trash.

That is not to say there are not some parts of the bill that are good. This whole thing is being rushed through, and we are all being pressured to pass it, vote for cloture. Let's get out of here. We have to go home, let's go. Let's get this thing out of the way. What Osama bin Laden would care about is whether there are more security guards, better detection equipment at our ports and airports. What Osama bin Laden would care about is whether we have enough border patrol agents to capture his terrorists as they try to enter this country. What Osama bin Laden would care about is whether we have sufficient security at our nuclear powerplants to deter his efforts to steal nuclear material or blow up a nuclear facility.

The Senate Appropriations Committee, on which Senator STEVENS and I sit, along with 27 other Senators, in-

cluding the distinguished Senator who presides over the Chamber at this moment, the Senator from Rhode Island, Mr. REED, tried to provide funds to programs to hire more FBI agents, to hire more border patrol agents, to equip and train our first responders, to improve security at our nuclear powerplants, to improve bomb detection at our airports. That committee of 29 Senators—15 Democrats and 14 Republicans—voted to provide the funds for these homeland security needs. Those funds have been in bills that have been out there for 4 months. This administration, right down here at the other end of the avenue, has had its leaders over in the Republican-controlled House sitting on those bills. The chairman in the Appropriations Committee in the House saw the need for these bills. He tried to get the leadership in the House to take the cuffs off his hands and wrists and let him go forward with these appropriations bills. The answer was no. So the money has been there. All that needed to be done, all we needed in order to release those funds—I can remember in one bill we had \$2.5 billion in homeland security funds. All the President had to do was sign his name to the effect that this was an emergency. That money would have flowed; it would have been out there now—not next week, not next year, but now it would have been out there.

Various people at the local level—the firemen, the policemen, people on the borders, border patrol, people in the ports, securing the ports, people at the airports that help the emergency personnel—all of these people would have had the advantage of that money flowing immediately for homeland security.

But the President said no—no, he would not sign it. President Bush is the man I am talking about. He would not sign that as an emergency. These monies have been reported by a unanimous Appropriations Committee. But this administration said no. So that is what happened. These are actions that would make America more secure today. Did the President help us to approve these funds? No. Instead, the President forced us—forced us—to reduce homeland security funding by \$8.9 billion, and he delayed another \$5 billion.

This is shameful; this is cynical; this is being irresponsible. It is unfair to the American people. And then to tell them Congress ought to pass that homeland security bill—that is passing the buck.

Mr. President, I call attention to a column in the New York Times. This is entitled "You Are A Suspect." It is by William Safire. I will read it:

If the homeland security act is not amended before passage, here is what will happen to you:

Listen, Senators. This is what William Safire is saying in the New York Times of November 14, 2002. That is today. This is what the New York Times is saying to you, to me, to us:

If the Homeland Security Act is not amended before passage, here is what will happen to you:

Every purchase you make—

Hear me now—

Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every Web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend—all these transactions and communications will go into what the Defense Department describes as "a virtual, centralized grand database."

To this computerized dossier on your private life from commercial sources, add every piece of information that government has about you—passport application, driver's license and bridge toll records, judicial and divorce records, complaints from nosy neighbors to the F.B.I., your lifetime paper trail plus the latest hidden camera surveillance—and you have the supersnoop's dream: a "Total Information Awareness" about every U.S. citizen.

Every U.S. citizen, and that is you, that is you, that is you, that is you, that is you.

This is not some far-out Orwellian scenario. It is what will happen to your personal freedom in the next few weeks if John Poindexter gets the unprecedented power he seeks.

Remember Poindexter? Brilliant man, first in his class at the Naval Academy, later earned a doctorate in physics, rose to national security adviser under President Ronald Reagan. He had this brilliant idea of secretly selling missiles to Iran to pay ransom for hostages, and with the illicit proceeds to illegally support Contras in Nicaragua.

A jury convicted Poindexter in 1990 on five felony counts of misleading Congress and making false statements, but an appeals court overturned the verdict because Congress had given him immunity for his testimony. He famously asserted, "The buck stops here," arguing that the White House staff, and not the president, was responsible for fateful decisions that might prove embarrassing.

This ring-knocking master of deceit is back again with a plan even more scandalous than Iran-Contra. He heads the "Information Awareness Office" in the otherwise excellent Defense Advanced Research Projects Agency, which spawned the Internet and stealth aircraft technology. Poindexter is now realizing his 20-year dream: getting the "data-mining" power to snoop on every public and private act of every American.

Even the hastily passed U.S.A. Patriot Act, which widened the scope of the Foreign Intelligence Surveillance Act and weakened 15 privacy laws, raised requirements for the government to report secret eavesdropping to Congress and the courts. But Poindexter's assault on individual privacy rides roughshod over such oversight.

He is determined to break down the wall between commercial snooping and secret government intrusion. The disgraced admiral dismisses such necessary differentiation as bureaucratic "stovepiping." And he has been given a \$200 million budget to create computer dossiers on 300 million Americans.

When George W. Bush was running for president, he stood foursquare in defense of each person's medical, financial and communications privacy. But Poindexter, whose contempt for the restraints of oversight drew the Reagan administration into its most serious blunder, is still operating on the presumption that on such a sweeping theft of privacy rights, the buck ends with him and not with the president.

This time, however, he has been seizing power in the open. In the past week John Markoff of *The Times*, followed by Robert O'Harrow of *The Washington Post*, have revealed the extent of Poindexter's operation, but editorialists have not grasped its undermining of the Freedom of Information Act.

Political awareness can overcome "Total Information Awareness," the combined force of commercial and government snooping. In a similar overreach, Attorney General Ashcroft tried his Terrorism Information and Prevention System (TIPS), but public outrage at the use of gossips and postal workers as snoops caused the House to shoot it down. The Senate should now do the same to this other exploitation of fear.

The Latin motto over Poindexter's new Pentagon office reads "Scientia Est Potentia"—"knowledge is power." Exactly: the government's infinite knowledge about you is its power over you. "We're just as concerned as the next person with protecting privacy," this brilliant mind blandly assured *The Post*. A jury found he spoke falsely before.

If the American people, if the American public is to believe what they read in this week's newspapers, the Congress stands ready to pass legislation to create a new Department of Homeland Security. Not with my vote. Passage of such legislation would be the answer to the universal battle cry that this administration adopted shortly after the September 11 attacks: Reorganize the Federal Government.

How is it that the Bush administration's No. 1 priority has evolved into a plan to create a giant, huge bureaucracy? How is it that the Congress bought into the belief that to take a plethora of Federal agencies and departments and shuffle them around would make us safer from future terrorist attacks?

Osama bin Laden is still alive and plotting more attacks while we play bureaucratic shuffle board after we have already spent about \$20 billion in Afghanistan to capture or to obliterate Osama bin Laden. He has surfaced on audio tapes boasting about how he is plotting additional terrorist attacks against the United States. Yet our only response is to reorganize the Federal Government. That is our only response, reorganize the Federal Government.

Right here it is, 484 pages of it, reorganizing the Federal Government. Am I missing something here?

Eleven of the thirteen appropriations bills have not yet been passed. Together they contain over \$25.6 billion in funds to improve our homeland defense. That is money to hire additional

border security personnel. That is money to purchase equipment at our seaports and airports to inspect packages for weapons of mass destruction. That is money for protection against cyber-attacks. That is money to protect our nuclear facilities, not a year from now but now. That is money to assist local police, local firefighters, local health care workers in case of additional terrorist attacks.

Yet the administration is refusing to allocate this money, refusing to turn on the spigot and let it flow, let it roll.

This is real money to improve America's safety, but instead of pushing for these resources, the administration's top and seemingly only priority is a bureaucratic reshuffling of agencies. So this administration will continue holding up the money needed to protect Americans—your children, your grandchildren, your wife, your in-laws, your friends—at home and it will be allowed to do so because it will have this flimsy 484 pages of legislation to cover its political backside.

The design of this hulking bureaucracy has been the administration's focus for the past several months. That is where it wanted Congress to focus its attention. That is where the administration wanted the American people to focus, not on providing real homeland security but, rather, on playing bureaucratic shuffle board.

We have witnessed a great show. We have been told that if only we pass this 484 pages of legislation—this political hoax that I hold in my hand, that many of us have not seen before yesterday—the American people have been told that if only we pass this legislation, all would be well.

But like the great and powerful Wizard of Oz, with his terrifying smoke, flames and roar, the reality of this too-good-to-be-true proposal will eventually be unveiled.

Mr. President, my concerns about this legislation and its several iterations are many. It gives the President too much unchecked authority. It gives the Secretary of the new Department too much unchecked authority. It makes massive changes in Government structure with little scrutiny, and it allows those changes to be made without the approval of the Congress.

It threatens changes to worker protections that could have enormous and detrimental effects. It extends the cloak of secrecy that has been a hallmark of this White House.

The PRESIDING OFFICER (Mr. DAYTON). The Senator will suspend. Senators will kindly take their conversations off the floor.

The Senator from West Virginia.

Mr. BYRD. Mr. President, this legislation not only cuts the Congress out of the loop, it also includes provisions to keep the people and the press—and the press had better take notice—it includes provisions to keep the people and the press, the members of the fourth estate, in the dark.

I don't think the media realize this about this bill. And the media has apparently swallowed the line that this is a compromise. It is more than that. It is a compromise of our personal liberties. It is a compromise of the privacy rights of our people. It is a compromise of the checks and balances. It is a compromise of the separation of powers. It is a compromise of the American people's right to know—the American people's right to know. It is a compromise of that.

For those who do not understand what I am saying, they should get this bill, 484 pages of it. It is a new bill. It did not exist anywhere until yesterday.

We have talked about how this whole idea of a Homeland Security Department, presented to us by this administration, we have talked about how it was hatched in secrecy in the bowels of the White House, how it was hatched in secrecy, cooked up by four different persons in the White House. I have named them earlier today: Mr. Card, Mr. Gonzales, Mr. Mitch Daniels, and Mr. Ridge. No disrespect to any of them—they are all fine people; they are all fine public servants—but they are not anything extraordinary, I would say that, insofar as people go. They hatched this thing. They hatched it in secrecy.

We understand from the newspapers this was talked about among the people in the administration, down in the secrecy of the White House. It had been talked about. It had been developed. And then it sprang forth like Minerva from the forehead of Jove, fully clothed, fully armed. There it was.

We could say the same thing about this bill that we are passing here. We have little right to complain about the White House and about the way in which it developed in secrecy this whole egg that was hatched and sprung upon us as the homeland security bill.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ADJOURNMENT UNTIL 9:45 A.M.
TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent

that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:46 p.m., adjourned until Friday, November 15, 2002, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate November 14, 2002:

DEPARTMENT OF JUSTICE

HARLOW EUGENE COSTNER, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE BECKY JANE WALLACE.

RICHARD ZENOS WINGET, OF NEVADA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEVADA, VICE JOSE GERARDO TRONCOSO.

UNITED STATES INTERNATIONAL TRADE COMMISSION

DANIEL PEARSON, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2011, VICE LYNN M. BRAGG, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

JAMES M. LOY, OF VIRGINIA, TO BE UNDER SECRETARY TRANSPORTATION FOR SECURITY FOR A TERM OF FIVE YEARS, VICE JOHN MAGAW, RESIGNED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRETT L. HANKE, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

WILLIAM C. CANNON, 0000
WILLIAM A. JOHNSTON, JR., 0000
LEONARD H. KISER, 0000
CHARLES F. MAGUIRE III, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

ROBERT D. BEAL, 0000
JEFFREY M. BIERLEY, 0000
NATHAN P. BORCHERS, 0000
STEPHEN G. BROOKS, 0000
JAMES E. BROWN, 0000
JAMES R. BRYAN, 0000
RONALD W. BURKETT, 0000
LAWRENCE C. CALAHAN, 0000
DANIEL B. CALDWELL, 0000
BRIAN L. CASPER, 0000
DAVID M. DOWLER, 0000
KEVIN L. DUZAN, 0000
DAVID C. DYE, 0000
MATTHEW G. GURGEL, 0000
JOSEPH T. HANSEN, 0000
SHAWN W. HUEY, 0000
CHARLES B. JOHNSTON, 0000
THOMAS H. KIERSTEAD, 0000
TIMOTHY M. LEDBETTER, 0000
JON H. MORETTY, 0000
CHRISTOPHER P. NODINE, 0000
MATTHEW L. PARSONS, 0000
ERIK R. PATTON, 0000
DAVID R. PERRY, 0000
VINCENT J. PERRY, 0000
KENNETH N. RADFORD, 0000
KEVIN K. ROACH, 0000
THOMAS E. SCHULTZ, 0000
JAYSON W. SCHWANTES, 0000
THOMAS W. SINGLETON, 0000
JEFFREY S. SMITH, 0000
LOUIS J. SPRINGER, 0000
LANCE E. THOMPSON, 0000
STEVEN J. ZACCARI, 0000

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 14, 2002:

NATIONAL LABOR RELATIONS BOARD

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2004.

DEPARTMENT OF ENERGY

KYLE E. MCSLARRON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF ENERGY.

DEPARTMENT OF AGRICULTURE

PHYLLIS K. FONG, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF AGRICULTURE.

FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2003.

DEPARTMENT OF THE TREASURY

WAYNE ABERNATHY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

FEDERAL MARITIME COMMISSION

REBECCA DYE, OF NORTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2005.

DEPARTMENT OF TRANSPORTATION

ROGER P. NOBER, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2005.

REFORM BOARD (AMTRAK)

DAVID MCQUEEN LANEY, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

EXPORT-IMPORT BANK OF THE UNITED STATES

PHILIP MERRILL, OF MARYLAND, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 2005.

DEPARTMENT OF STATE

KIM R. HOLMES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL ORGANIZATIONS).

MAURA ANN HARTY, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (CONSULAR AFFAIRS).

ELLEN R. SAUERBREY, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

QUANAH CROSSLAND STAMPS, OF VIRGINIA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

NATIONAL INDIAN GAMING COMMISSION

PHILIP N. HOGEN, OF SOUTH DAKOTA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS.

DEPARTMENT OF STATE

J. COFER BLACK, OF VIRGINIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

IRENE B. BROOKS, OF PENNSYLVANIA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

BROADCASTING BOARD OF GOVERNORS

BLANQUITA WALSH CULLUM, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005.

DEPARTMENT OF STATE

PETER DESHAZO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING TENURE OF SERVICE AS DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES.

DAVID N. GREENLEE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOLIVIA.

JOHN RANDLE HAMILTON, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

OVERSEAS PRIVATE INVESTMENT CORPORATION

COLLISTER JOHNSON, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2004.

DEPARTMENT OF STATE

JOHN F. KEANE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

OVERSEAS PRIVATE INVESTMENT CORPORATION

JOHN L. MORRISON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2004.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

ALLEN I. OLSON, OF MINNESOTA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO RE-

QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

RENE ACOSTA, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 27, 2003.

THE JUDICIARY

JOHN M. ROGERS, OF KENTUCKY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.
STANLEY R. CHESLER, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ROSEMARY M. COLLYER, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

MARK E. FULLER, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA.

DANIEL L. HOVLAND, OF NORTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA.

KENT A. JORDAN, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE.

JAMES E. KINKADE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS.

ROBERT G. KLAUSNER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

ROBERT B. KUGLER, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

RONALD B. LEIGHTON, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

JOSE L. LINARES, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ALIA M. LUDLUM, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

WILLIAM J. MARTINI, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

THOMAS W. PHILLIPS, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

LINDA R. READE, OF IOWA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA.

WILLIAM E. SMITH OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

JEFFREY S. WHITE, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

FREDA L. WOLFSON, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

FARM CREDIT ADMINISTRATION

NANCY C. PELLET, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 31, 2008.

DEPARTMENT OF DEFENSE

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2003.

NATIONAL LABOR RELATIONS BOARD

ROBERT J. BATTISTA, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2007.

WILMA B. LIEBMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2006.

PETER SCHAUMBER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2005.

NATIONAL COUNCIL ON DISABILITY

JOEL KAHN, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

PATRICIA POUND, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005.

LINDA WETTTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAVID GELERNTER, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006.

NATIONAL MUSEUM SERVICES BOARD

A. WILSON GREENE, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2004.

JUDITH ANN RAPANOS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2002.

JUDITH ANN RAPANOS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2007.

MARIA MERCEDES GUILLEARD, OF PUERTO RICO, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2005.

NANCY S. DWIGHT, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2005.

PETER HERO, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

THOMAS E. LORENTZEN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

NATIONAL INSTITUTE FOR LITERACY

JUAN R. OLIVAREZ, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF ONE YEAR.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

JAMES M. STEPHENS, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2005.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2006.

NATIONAL INSTITUTE FOR LITERACY

CAROL C. GAMBILL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF THREE YEARS.

NATIONAL MUSEUM SERVICES BOARD

BETH WALKUP, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2003.

DEPARTMENT OF EDUCATION

JOHN PORTMAN HIGGINS, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF EDUCATION.

COAST GUARD NOMINATION OF DANA B. REID.

COAST GUARD NOMINATIONS BEGINNING DOUGLAS A. ASH AND ENDING WARREN E. SOLODOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2002.

COAST GUARD NOMINATIONS BEGINNING ANTHONY J. ALARID AND ENDING MICHAEL B. ZAMPERINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 12, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM JOSEPH BURNS AND ENDING MICHAEL L. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING JON CHRISTOPHER KARBER AND ENDING PETER FERNANDEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.